

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 to enable the Police Integrity Commission (the PIC) to investigate and otherwise deal with misconduct of officers of the New South Wales Crime Commission. The amendments confer on the PIC similar functions in dealing with misconduct of NSW Crime Commission officers as the PIC has in dealing with corrupt conduct of police officers and administrative officers in the NSW Police Force. The amendments will extend to conduct occurring before the commencement of the proposed Act.

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.

Clause 3 is a formal provision that gives effect to the amendments to the Police Integrity Commission Act 1996 set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the consequential amendments to the Independent Commission Against Corruption Act 1988 (the ICAC Act) set out in Schedule 2.

Clause 5 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the Interpretation Act 1987 provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Police Integrity

Commission Act 1996

Schedule 1 [1] and [2] insert definitions of various terms used in provisions being inserted by the proposed Act. In particular, Crime Commission officer is defined to mean the NSW Crime Commissioner, an Assistant NSW Crime Commissioner and any member of staff of the NSW Crime Commission. The term misconduct of a Crime Commission officer includes conduct that is corrupt conduct within the meaning of the ICAC Act. The amendments also make it clear that the misconduct of former Crime Commission officers may be dealt with by the PIC.

Schedule 1 [3] confers functions on the PIC that relate to the prevention, detection and investigation of misconduct of Crime Commission officers. The functions of the PIC will also extend to overseeing other agencies (by way of providing guidance) in detecting or investigating misconduct of Crime Commission officers. The amendment also enables the PIC Commissioner to allocate the responsibility for dealing with such matters by the PIC to an Assistant Commissioner and particular staff of the PIC.

Schedule 1 [14] provides for the making of complaints to the PIC about matters involving misconduct of Crime Commission officers. Certain public officials, including the NSW Crime Commissioner and the Commissioner of Police, will be under a duty to report any such suspected misconduct to the PIC. Schedule 1 [32] enables certain public officials to make complaints to the PIC about the conduct of Crime Commission officers.

Schedule 1 [4]–[9] and [11]–[13] make amendments that are consequential on the amendments made by Schedule 1 [3] and [14].

Schedule 1 [10] makes it clear that answers given by a person at a hearing before the PIC may be used for the purposes of taking disciplinary action under Part 2.7 of the Public Sector Employment and Management Act 2002 in addition to being used in disciplinary proceedings.

Schedule 1 [15]–[23], [25] and [26] provide that the referral of matters by the PIC to the NSW Crime Commission concerning Crime Commission officers will be subject to the same reporting requirements as currently apply to matters that are

referred by the PIC to the police.

Schedule 1 [24] provides that information in the PIC's annual report relating to its operations involving Crime Commission officers must be kept separate from other matters in the annual report.

Schedule 1 [27]–[29] extend existing provisions concerning the functions of the ICAC and the functions of the PIC where other public officials are involved so that the provisions apply in relation to Crime Commission officers in the same way as the provisions currently apply in relation to members of the NSW Police Force.

Schedule 1 [30] provides for the PIC and the ICAC to enter into arrangements for dealing with misconduct of Crime Commission officers (such arrangements may already be entered into regarding the conduct of members of the NSW Police Force).

Schedule 1 [31] makes it clear that the ICAC's educative and advisory roles may still be exercised in relation to the NSW Crime Commission.

Schedule 1 [33] enables regulations of a savings or transitional nature to be made as a consequence of the proposed Act. Schedule 1 [34] inserts savings and transitional provisions consequent on the enactment of the proposed Act. In particular, the amendments made by the proposed Act will extend to conduct occurring before the commencement of the proposed Act. Also, the amendments make it clear that any existing ICAC investigation into the conduct of Crime Commission officers will not be affected.

Schedule 2 Amendment of Independent Commission Against Corruption Act 1988

Schedule 2 [1] provides that the NSW Crime Commissioner is not under a duty to report to the ICAC any matter that concerns misconduct of a Crime Commission officer unless the Crime Commissioner suspects that the matter also concerns corrupt conduct of another public official.

Schedule 2 [2] limits the functions of the ICAC in relation to the conduct of Crime Commission officers (in the same way as its functions are currently limited in relation to members of the NSW Police Force).