



New South Wales

ICAC and LECC Legislation Amendment Act 2022 No 28

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ICAC and LECC Legislation Amendment Act 2022 No 28

Act No 28, 2022

An Act to amend the *Independent Commission Against Corruption Act 1988*, the *Independent Commission Against Corruption (Commissioner) Act 1994* and the *Law Enforcement Conduct Commission Act 2016* in relation to the appointment of a Judge of the District Court to the Independent Commission Against Corruption or the Law Enforcement Conduct Commission; and for other purposes. [Assented to 27 June 2022]

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *ICAC and LECC Legislation Amendment Act 2022*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35

[1] Schedule 1A Provisions relating to Inspector and Assistant Inspector

Insert after clause 6—

6A Appointment of Supreme Court or District Court Judge as Inspector

- (1) This clause applies to a person—
 - (a) who was a Judge of the Supreme Court or the District Court before being appointed as Inspector, whether on a regular or an acting basis, and
 - (b) whose resignation as a Judge took effect immediately before the appointment as Inspector took effect, and
 - (c) whose instrument of appointment as Inspector declared that the person's commission as a Judge is to revive by force of this clause, and
 - (d) who consented by letter to the Minister to the application of this clause.
- (2) The person's commission as a Judge revives by force of this clause when the person ceases to hold office as Inspector.
- (3) The person becomes, from the time the person ceases to hold office as Inspector—
 - (a) if the person was a Judge of the Supreme Court before being appointed as Inspector—a Judge of the Supreme Court again, or
 - (b) if the person was a Judge of the District Court before being appointed as Inspector—a Judge of the District Court again.
- (4) Subclauses (2) and (3) do not apply in relation to any other judicial office held by the person.
- (5) For the purposes of the *Judges' Pensions Act 1953*—
 - (a) service by the person as Inspector is taken to be service as a Judge, and
 - (b) references to a Judge or judicial office include references to the person in the person's capacity as Inspector and the office of Inspector, and
 - (c) references to notional judicial salary are, in relation to the person while Inspector, references to the salary payable to the holder of a judicial office having a status equivalent to that of the judicial office held by the person immediately before being appointed as Inspector.
- (6) Subclauses (2) and (3) do not apply to the person if—
 - (a) the person makes a request by letter to the Minister, or
 - (b) the person is removed from office as Inspector by the Governor on the address of both Houses of Parliament under clause 7(2).
- (7) For the purposes of this clause, a reappointment of the person as Inspector without a break is taken to be a continuation of the previous appointment as Inspector.

[2] Schedule 4 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

**Part Provision consequent on enactment of ICAC and
LECC Legislation Amendment Act 2022**

**Commencement of amendments by ICAC and LECC Legislation Amendment
Act 2022**

- (1) The amendments made by the amending Act apply on and from 30 June 2022, including if the amending Act commences after that date.
- (2) In this clause—
amending Act means the *ICAC and LECC Legislation Amendment Act 2022*.

Schedule 2 Amendment of Independent Commission Against Corruption (Commissioner) Act 1994 No 61

[1] Long title and section 4(1)(a)

Insert “or the District Court” after “Court”, wherever occurring.

[2] Section 4, heading

Insert “or District Court” after “Court”.

[3] Section 4(2)–(2B)

Omit subsection (2). Insert instead—

- (2) The person’s commission as a Judge revives by force of this Act when the person ceases to hold office as a Commissioner.
- (2A) The person becomes, from the time the person ceases to hold office as a Commissioner—
 - (a) if the person was a Judge of the Supreme Court before being appointed as a Commissioner—a Judge of the Supreme Court again, or
 - (b) if the person was a Judge of the District Court before being appointed as a Commissioner—a Judge of the District Court again.
- (2B) Subsections (2) and (2A) do not apply in relation to any other judicial office held by the person.

[4] Section 4(3)(a)

Omit “of the Supreme Court”.

[5] Section 4(4)

Omit “Subsection (2) ceases to”. Insert instead “Subsections (2) and (2A) do not”.

[6] Sections 6 and 7

Insert after section 5—

6 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the commencement of—
 - (a) a provision of this Act, or
 - (b) a provision amending this Act.
- (2) A savings or transitional provision consequent on the commencement of a provision must not be made more than 2 years after the commencement.
- (3) A savings or transitional provision made consequent on the commencement of a provision is repealed 2 years after the commencement.
- (4) A savings or transitional provision made consequent on the commencement of a provision may take effect before the commencement but not before—
 - (a) for a provision of this Act—the date of assent to this Act, or
 - (b) for a provision amending this Act—the date of assent to the amending Act.
- (5) A savings or transitional provision taking effect before its publication on the NSW legislation website does not—

- (a) affect the rights of a person existing before the publication in a way prejudicial to the person, or
 - (b) impose liabilities on a person for anything done or omitted to be done before the publication.
- (6) In this section—
person does not include the State or an authority of the State.

7 Commencement of amendments by ICAC and LECC Legislation Amendment Act 2022

- (1) The amendments made by the amending Act apply on and from 30 June 2022, including if the amending Act commences after that date.
- (2) In this section—
amending Act means the *ICAC and LECC Legislation Amendment Act 2022*.

Schedule 3 Amendment of Law Enforcement Conduct Commission Act 2016 No 61

[1] Schedule 1 Provisions relating to members of the Commission, Assistant Commissioners and alternate Commissioners

Insert “or District Court” after “Court” in clause 6, heading.

[2] Schedule 1, clause 6(1)(a)

Insert “or the District Court” after “Court”.

[3] Schedule 1, clause 6(2)–(2B)

Omit clause 6(2). Insert instead—

- (2) The person’s commission as a Judge revives by force of this clause when the person ceases to hold office as a member of the Commission or Assistant Commissioner.
- (2A) The person becomes, from the time the person ceases to hold office as a member of the Commission or Assistant Commissioner—
 - (a) if the person was a Judge of the Supreme Court before being appointed as a member of the Commission or Assistant Commissioner—a Judge of the Supreme Court again, or
 - (b) if the person was a Judge of the District Court before being appointed as a member of the Commission or Assistant Commissioner—a Judge of the District Court again.
- (2B) Subclauses (2) and (2A) do not apply in relation to any other judicial office held by the person.

[4] Schedule 1, clause 6(3)(a)

Omit “of the Supreme Court”.

[5] Schedule 1, clause 6(4)

Omit “Subclause (2) ceases to”. Insert instead “Subclauses (2) and (2A) do not”.

[6] Schedule 2 Provisions relating to Inspector and Assistant Inspectors

Insert “or District Court” after “Court” in clause 8, heading.

[7] Schedule 2, clause 8(1)(a)

Insert “or the District Court” after “Court”.

[8] Schedule 2, clause 8(2)–(2B)

Omit subclause (2). Insert instead—

- (2) The person’s commission as a Judge revives by force of this clause when the person ceases to hold office as Inspector.
- (2A) The person becomes, from the time the person ceases to hold office as Inspector—
 - (a) if the person was a Judge of the Supreme Court before being appointed as Inspector—a Judge of the Supreme Court again, or
 - (b) if the person was a Judge of the District Court before being appointed as Inspector—a Judge of the District Court again.

(2B) Subclauses (2) and (2A) do not apply in relation to any other judicial office held by the person.

[9] Schedule 2, clause 8(4)

Omit “Subclause (2) ceases to”. Insert instead “Subclauses (2) and (2A) do not”.

[10] Schedule 3 Savings, transitional and other provisions

Insert at the end of the Schedule, with appropriate Part and clause numbering—

**Part Provision consequent on enactment of ICAC and
LECC Legislation Amendment Act 2022**

**Commencement of amendments by ICAC and LECC Legislation Amendment
Act 2022**

- (1) The amendments made by the amending Act apply on and from 30 June 2022, including if the amending Act commences after that date.
- (2) In this clause—
amending Act means the *ICAC and LECC Legislation Amendment Act 2022*.

[Second reading speech made in—
Legislative Assembly on 8 June 2022
Legislative Council on 23 June 2022]