



New South Wales

# Law Enforcement Conduct Commission Regulation 2017

under the

Law Enforcement Conduct Commission Act 2016

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Law Enforcement Conduct Commission Act 2016*.

TROY GRANT, MP  
Minister for Police

## Explanatory note

The object of this Regulation is to make provision in relation to the following:

- (a) the security checks of officers of the Law Enforcement Conduct Commission, of applicants seeking engagement as officers of the Commission and of persons associated with those officers or applicants,
- (b) the disclosure by officers of the Law Enforcement Conduct Commission of pecuniary and other interests of those officers and of persons associated with those officers,
- (c) the issue of identity cards.

This Regulation is made under the *Law Enforcement Conduct Commission Act 2016*, including sections 191 and 197 (the general regulation-making power).

This Regulation comprises or relates to matters set out in Schedule 3 to the *Subordinate Legislation Act 1989*, namely matters of a machinery nature and matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector the public.

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## Law Enforcement Conduct Commission Regulation 2017

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### Part 1 Preliminary

#### 1 Name of Regulation

This Regulation is the *Law Enforcement Conduct Commission Regulation 2017*.

#### 2 Commencement

This Regulation commences on 1 July 2017 and is required to be published on the NSW legislation website.

#### 3 Definitions

(1) In this Regulation:

**applicant** means a person who is an applicant for appointment or engagement as an officer of the Commission.

**approved** means approved by the Chief Commissioner from time to time.

**the Act** means the *Law Enforcement Conduct Commission Act 2016*.

**Note.** The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

(2) Notes included in this Regulation do not form part of this Regulation.

#### 4 Associated persons

(1) For the purposes of Parts 2 and 3 of this Regulation, a reference to a person who is associated with an officer of the Commission or an applicant is a reference to:

- (a) in the case of an officer or applicant who is an individual—any personal associate or business associate of the individual, or
- (b) in the case of an officer or applicant that is a company engaged under section 21 (2) (c) of the Act:
  - (i) any of the key personnel of the company, or
  - (ii) any personal associate or business associate of any such key personnel, or
  - (iii) any related body corporate (within the meaning of the *Corporations Act 2001* of the Commonwealth) of the company.

(2) In this clause:

**business associate** of an individual means any of the following persons:

- (a) any employer of the individual,
- (b) any of the key personnel of any such employer (in the case of an employer that is a company),

- (c) in the case of an individual who is a member of a partnership:
  - (i) the other partners in the partnership, and
  - (ii) such employees of the partnership, and such other persons having contractual relationships with the partnership, as the Chief Commissioner may determine in respect of the partnership or a class of partnerships to which the partnership belongs,
- (d) any employees of the individual,
- (e) such other persons having contractual relationships with the individual as the Chief Commissioner may determine in respect of the individual or a class of individuals to which the individual belongs.

**key personnel** of a company means any of the following persons:

- (a) the directors of the company,
- (b) the secretary of the company,
- (c) such officers or employees of the company, such shareholders in the company and such other persons having contractual relationships with the company as the Chief Commissioner may determine in respect of the company or a class of companies to which the company belongs.

**personal associate** of an individual means any of the following persons:

- (a) the individual's spouse,
- (b) any child who is under the age of 18 years and is a child of the individual or of the individual's spouse,
- (c) such other persons within the individual's household or family, or with whom the individual associates socially, as the Chief Commissioner may determine in respect of the individual or a class of individuals to which the individual belongs.

**spouse** means a husband or wife or a de facto partner, but where more than one person would so qualify as a spouse, means only the last person qualifying.

## Part 2 Security checks

### 5 Disclosure of certain information by officers and applicants

- (1) The Chief Commissioner may require an officer of the Commission or an applicant to furnish to the Chief Commissioner a statement of personal particulars, in the approved form, in relation to any of the following:
  - (a) the officer or applicant,
  - (b) any other person who is associated with the officer or applicant,
  - (c) any person who is or has at any time been:
    - (i) a member of the NSW Police Force or a Crime Commission officer, and
    - (ii) associated with the officer or applicant (other than as a fellow member of the NSW Police Force or as a fellow Crime Commission officer).
- (2) The Chief Commissioner may require the officer or applicant to also furnish, with any statement of personal particulars, an authority for the release of information, and a consent to conduct inquiries, each in the approved form and duly executed by the person to whom the statement relates.
- (3) The officer or applicant must, when furnishing any statements to the Chief Commissioner, also furnish the Chief Commissioner with a statutory declaration, in the approved form, concerning the officer's or applicant's association (if any) with known or reputed criminals.
- (4) If the officer or applicant is a company or partnership engaged or to be engaged under section 21 (2) (c) of the Act, the statutory declaration is to be made on behalf of the company or partnership by such directors or employees of the company, or by such partners in or employees of the partnership, as the Chief Commissioner may direct.

### 6 Production of certain documents by officers and applicants

- (1) The Chief Commissioner may require an officer of the Commission or an applicant to furnish to the Chief Commissioner the prescribed documents relating to:
  - (a) the officer or applicant, or
  - (b) any other person who is associated with the officer or applicant.
- (2) However, the Chief Commissioner may only require the officer or applicant to provide the prescribed documents that are in the possession of the officer or applicant or to which the officer or applicant has an immediate right of possession.
- (3) The *prescribed documents*, in the case of an individual, are as follows:
  - (a) a birth certificate or a duly certified extract of a birth certificate,
  - (b) a marriage certificate or a duly certified extract of a marriage certificate,
  - (c) a current passport,
  - (d) a current driver's licence,
  - (e) a duly certified copy of any registered deed by which the individual has formally changed the individual's name,
  - (f) a certificate of naturalisation,
  - (g) a certificate of discharge from the Defence Force,
  - (h) a certificate evidencing the individual's educational, professional or trade qualifications,
  - (i) the most recent income tax return lodged by, and the most recent income tax assessment issued in relation to, the individual.

- (4) The *prescribed documents*, in the case of a company or partnership engaged under section 21 (2) (c) of the Act, are as follows:
- (a) a copy of the constitution of the company or of the agreement establishing the partnership,
  - (b) the most recent annual report of the company or partnership,
  - (c) the most recent audited financial statement in relation to the company or partnership,
  - (d) the most recent income tax return lodged by, and the most recent income tax assessment issued in relation to, the company or the several partners in the partnership.

#### **7 Fingerprints to be furnished**

- (1) The Chief Commissioner may require an officer of the Commission or an applicant to furnish to the Chief Commissioner an imprint of the officer's or applicant's fingerprints.
- (2) If the officer or applicant is a company or partnership engaged or to be engaged under section 21 (2) (c) of the Act, the Chief Commissioner may require the officer or applicant to furnish to the Chief Commissioner an imprint of the fingerprints of:
- (a) any specified associate of the company, or
  - (b) any specified associate of a partner in the partnership.
- (3) Fingerprint imprints obtained by the Commission from an applicant, or an associate of an applicant, are to be destroyed within 6 months after the application is determined unless, within that time, the applicant becomes an officer of the Commission.
- (4) Fingerprint imprints obtained by the Commission from an officer, or an associate of an officer, are to be destroyed within 6 months after the officer ceases to be an officer.
- (5) The Commission may retain the fingerprint imprints of an officer, or any associate of an officer, if the officer:
- (a) is under investigation by the Commission when the officer ceases to be an officer, or
  - (b) becomes subject to an investigation by the Commission within 6 months after ceasing to be an officer.
- (6) In any such case, the Commission may retain the fingerprint imprints only for such further period as is necessary to complete the investigation and any legal proceedings arising from the investigation.

#### **8 Changes in personal particulars to be notified by officers**

An officer of the Commission who becomes aware of any significant change in the personal particulars in relation to the officer, or any person who is associated with the officer and in respect of whom the officer has previously furnished a statement of personal particulars under this Part, must immediately furnish a statement of that change, in the approved form, to the Chief Commissioner.

#### **9 Conflict of interests to be notified by officers**

If an officer of the Commission becomes aware of any conflict of interest that has arisen, or that could be seen as having arisen, between the officer's duties as an officer and the officer's private interests, the officer must immediately notify the Chief Commissioner of that fact.

## **Part 3 Disclosure of pecuniary interests and other matters**

### **10 Meaning of “interest”**

- (1) A reference in this Part to an interest of an officer of the Commission is a reference to any pecuniary interest or other matter of a kind referred to in section 191 (a) (i)–(xi) of the Act that relates to the officer.
- (2) A reference in this Part to an interest of a person who is associated with an officer of the Commission is a reference to any pecuniary interest or other matter of a kind referred to in section 191 (a) (i)–(xi) of the Act that relates to the person (whether or not they also relate to the officer).

### **11 Statement of interests**

- (1) On becoming an officer of the Commission, the officer must furnish to the Chief Commissioner a statement of interests, in the approved form, of the officer.
- (2) Without limiting subclause (1), the Chief Commissioner may at any time require an officer of the Commission to furnish to the Chief Commissioner a statement of interests, in the approved form, of:
  - (a) the officer, or
  - (b) any other person who is associated with the officer.

### **12 Changes in interests to be notified**

An officer of the Commission who becomes aware of any significant change in the interests of the officer, or of any person who is associated with the officer and in respect of whom the officer has previously furnished a statement of interests under this Part, must immediately furnish a statement of that change, in the approved form, to the Chief Commissioner.

### **13 Exemptions from this Part**

The Chief Commissioner:

- (a) may exempt any particular officer or class of officers from the requirements of this Part, and
- (b) may impose conditions on any such exemption, and
- (c) may revoke any such exemption or any condition to which any such exemption is subject.

## **Part 4 Miscellaneous**

### **14 Identity cards**

The Chief Commissioner may issue identity cards, in the approved form, to officers of the Commission.