



New South Wales

Crime Commission Regulation 2022

under the

Crime Commission Act 2012

His Honour the Administrator, with the advice of the Executive Council, has made the following Regulation under the *Crime Commission Act 2012*.

PAUL TOOLE, MP
Minister for Police

Explanatory note

The object of this Regulation is to repeal and remake, with some amendments, the *Crime Commission Regulation 2012*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

This Regulation prescribes conditions of employment for members of staff of the New South Wales Crime Commission, including conditions relating to the following—

- (a) obtaining and maintaining security clearances,
- (b) the disclosure of vetting information,
- (c) providing statements of personal particulars, documents and fingerprint imprints,
- (d) the disclosure of conflicts of interest,
- (e) compliance with drug and alcohol policies.

This Regulation comprises or relates to matters set out in the *Subordinate Legislation Act 1989*, Schedule 3, namely—

- (a) matters of a machinery nature, and
- (b) matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Crime Commission Regulation 2022*.

2 Commencement

This Regulation commences on the day on which it is published on the NSW legislation website.

Note— This Regulation repeals and replaces the *Crime Commission Regulation 2012*, which would otherwise be repealed on 1 September 2022 by the *Subordinate Legislation Act 1989*, section 10(2).

3 Definitions

(1) In this Regulation—

the Act means the *Crime Commission Act 2012*.

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

(2) In this Regulation, a reference to a person who is associated with a member of staff or an applicant has the same meaning as in the Act, section 73, as if a reference to an officer of the Commission or an applicant for a position as an officer of the Commission were a reference to a member of staff of the Commission or an applicant for a position as a member of staff of the Commission.

Part 2 Staff of the Commission

4 Security clearances

- (1) For the Act, section 74(6), it is a condition of employment that a member of staff obtain and maintain—
 - (a) a security clearance issued by the Commissioner, and
 - (b) a security clearance issued by the Australian Government Security Vetting Agency that the Commissioner determines is necessary for the position.
- (2) A member of staff whose engagement or employment commenced before this Regulation commences is taken to have obtained a security clearance issued by the Commissioner.
- (3) In deciding whether to issue or revoke a security clearance, the Commissioner must have regard to the following—
 - (a) relationships and affiliations that the member of staff, or a person who is connected with the member of staff, has with persons, groups and organisations,
 - (b) the member of staff's financial circumstances, including any history of gambling,
 - (c) the member of staff's consumption of alcohol and use of drugs, including drugs that are lawfully obtained and used,
 - (d) the member of staff's health, including the member of staff's mental health,
 - (e) the member of staff's criminal history, including alleged offences in relation to which the member of staff has not been charged, prosecuted or convicted,
 - (f) the member of staff's history of compliance with requirements relating to the security and protection of property, information and other assets to which the member of staff had access—
 - (i) in the course of the member of staff's employment or engagement with the Commission, or
 - (ii) in the course of previous employment, or
 - (iii) as a contractor providing goods or services to a public authority of the State, the Commonwealth, another State or a Territory,
 - (g) other matters relevant to assessing the member of staff's suitability to be granted access to confidential or sensitive information held by the Commission, including personal conduct or other circumstances that may increase the risk of the member of staff being targeted for blackmail, coercion or bribery.
- (4) The Commissioner may terminate the engagement or employment of a member of staff who has had a security clearance referred to in subsection (1) revoked.

5 Vetting of members of staff

- (1) For the Act, section 74(6), it is a condition of employment that a member of staff consent to—
 - (a) the Commissioner requesting a public authority or other person or body to disclose vetting information about the member of staff to the Commissioner, and
 - (b) the public authority or other person or body disclosing the vetting information to the Commissioner.

- (2) In deciding whether to terminate the engagement or employment of a member of staff, the Commissioner may have regard to vetting information.
- (3) In this section—
public authority has the same meaning as in the Act, section 78A.
vetting information has the same meaning as in the Act, section 78A.

6 Statement of personal particulars to be given to Commissioner

- (1) For the Act, sections 74(6) and 77, it is a condition of employment that a member of staff comply with—
 - (a) a request made under subsection (2), and
 - (b) the requirements specified in subsections (3) and (4).
- (2) The Commissioner may request, at any time, that a member of staff, or an applicant for a position as a member of staff, give the Commissioner a statement of personal particulars, in the approved form, that relates to—
 - (a) the member of staff or applicant, or
 - (b) a person who is associated with the member of staff or applicant.
- (3) The statement must be accompanied by the following, in the approved form—
 - (a) a statutory declaration disclosing current or former associations that the member of staff or applicant has with—
 - (i) known criminals, and
 - (ii) persons who the member of staff or applicant reasonably suspects have committed criminal offences,
 - (b) an authority for the release of information contained in the statement,
 - (c) consent to the conduct of inquiries relating to the information.
- (4) A member of staff must, as soon as possible after becoming aware of a significant change concerning the information contained in a statement given in accordance with this section, give the Commissioner notice, in the approved form, of the change.

7 Disclosure of conflicts of interest

For the Act, sections 74(6) and 77, it is a condition of employment that a member of staff must, immediately after becoming aware of a conflict of interest, or an apparent conflict of interest, between the member of staff's duties as a member of staff and the member of staff's private interests, notify the Commissioner of the conflict.

8 Documents to be given to Commissioner

- (1) For the Act, sections 74(6) and 77, it is a condition of employment that a member of staff comply with a request made under subsection (2).
- (2) The Commissioner may request, at any time, that a member of staff, or an applicant for a position as a member of staff, give the Commissioner 1 or more of the prescribed documents relating to—
 - (a) the member of staff or applicant, or
 - (b) a person who is associated with the member of staff or applicant.
- (3) The *prescribed documents*, in relation to 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 licence,
 - (e) a duly certified copy of a registered deed by which the individual has formally changed the individual's name,
 - (f) a certificate of naturalisation or citizenship,
 - (g) a certificate of discharge from the Australian 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,
 - (j) a document evidencing the assets held by the individual in a foreign country, including accounts held by the individual with foreign financial institutions,
 - (k) a document issued by a public authority or other body in a foreign country evidencing the individual's identity, including a certificate of baptism or school or hospital records.
- (4) The *prescribed documents*, in relation to a company or partnership that is, or is seeking to be, engaged as a consultant under the Act, section 74(2), are as follows—
- (a) a copy of the company's constitution or the agreement establishing the partnership,
 - (b) the most recent annual report of the company or partnership,
 - (c) the most recent audited financial statement relating 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 partners.
- (5) Subsection (2) only applies to documents that are in the person's possession or that the person is entitled to immediate possession of.

9 Fingerprint imprints to be given to Commissioner

- (1) For the Act, section 74(6), it is a condition of employment that a member of staff comply with a request made under subsection (2) or (3).
- (2) The Commissioner may request, at any time, that a member of staff, or an applicant for a position as a member of staff, give the Commissioner an imprint of the fingerprints of the member of staff or applicant.
- (3) If the member of staff or applicant is a company or partnership that is, or is seeking to be, engaged as a consultant under the Act, section 74(2), the Commissioner may request the company or partnership to give the Commissioner an imprint of the fingerprints of a specified associate of the company or associate of a partner.
- (4) A fingerprint imprint received under this section must be destroyed—
 - (a) for an imprint received from an applicant or an associate of an applicant—within 6 months after the application is determined, unless the applicant is appointed to a position as a member of staff within the period, or
 - (b) for an imprint received from a member of staff or an associate of a member of staff—
 - (i) if the member of staff is under investigation by the Commission when the member of staff ceases to be a member of staff, or becomes subject to an investigation within 6 months after ceasing to be a member of staff—immediately once the investigation and any legal proceedings arising from the investigation have ceased, or

- (ii) otherwise—within 6 months after the member of staff ceases to be a member of staff.

10 Compliance with drug and alcohol policy

For the Act, section 74(6), it is a condition of employment that a member of staff comply with a drug and alcohol policy issued by the Commissioner.

Part 3 Miscellaneous

11 Repeal and savings

- (1) The *Crime Commission Regulation 2012* is repealed.
- (2) An act, matter or thing that, immediately before the repeal of the *Crime Commission Regulation 2012*, had effect under that Regulation continues to have effect under this Regulation.