



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.



New South Wales

Independent Commission Against Corruption and Other Legislation Amendment Bill 2013

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35	3
Schedule 2 Amendment of Crime Commission Act 2012 No 66	7
Schedule 3 Amendment of Ombudsman Act 1974 No 68	11
Schedule 4 Amendment of Police Act 1990 No 47	12
Schedule 5 Amendment of Police Integrity Commission Act 1996 No 28	16
Schedule 6 Amendment of Young Offenders Act 1997 No 54	20



New South Wales

Independent Commission Against Corruption and Other Legislation Amendment Bill 2013

No. , 2013

A Bill for

An Act to amend the *Independent Commission Against Corruption Act 1988* and other Acts with respect to the vetting of applicants for employment and the provision of information to the Ombudsman about young offenders and other matters; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Independent Commission Against Corruption Act 1988 No 35	1
		2
		3
[1] Sections 104C and 104D		4
Insert after section 104B:		5
104C Vetting of prospective staff or consultants		6
(1) Vetting information that is held by the Inspector or Commission or obtained under this section may be used in determining whether to appoint a person (an <i>applicant</i>) as an officer of the Inspector or the Commission.		7 8 9 10
(2) For the purposes of this section, <i>vetting information</i> is information of the following kind about an applicant, or about an associate or relative of an applicant:		11 12 13
(a) any criminal intelligence report or other criminal information,		14 15
(b) information held in the Births, Deaths and Marriages Register,		16 17
(c) information held by Roads and Maritime Services relating to licences or other authorities, offences or penalties,		18 19
(d) information held by Corrective Services NSW, Department of Attorney General and Justice,		20 21
(e) information held by CrimTrac,		22
(f) information held by a law enforcement agency,		23
(g) information held by an agency of the Commonwealth or of the State or another State or Territory investigating public sector corruption,		24 25 26
(h) information held by an agency of a jurisdiction outside Australia, being an agency responsible for the enforcement of laws of that jurisdiction,		27 28 29
(i) information prescribed by the regulations that is held by a public authority or held by a Government agency of another jurisdiction (whether in or outside Australia).		30 31 32
(3) The Inspector or Commission may, with the consent of an applicant, request a public authority or other person or body to disclose vetting information about the applicant.		33 34 35
(4) The Inspector or Commission may also, without consent, request a public authority or other person or body (not being an agency		36 37

Independent Commission Against Corruption and Other Legislation
Amendment Bill 2013

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

- of a jurisdiction outside Australia) to disclose vetting information about associates or relatives of the applicant. 1
2
- (5) A public authority that holds, or is responsible for the disclosure of, vetting information is authorised to disclose the information to the Inspector or Commission for the purposes of this section. 3
4
5
- (6) The Commissioner of Police is authorised at any time to disclose (or arrange for a member of the NSW Police Force to disclose) to the Inspector or Commission information about the criminal history of a person for the purposes of this section, including the following: 6
7
8
9
10
- (a) information relating to spent convictions, despite anything to the contrary in the *Criminal Records Act 1991*, 11
12
- (b) information relating to criminal charges, whether or not heard, proven, dismissed, withdrawn or discharged, 13
14
- (c) information relating to offences, despite anything to the contrary in section 579 of the *Crimes Act 1900*. 15
16
- (7) For the purposes of the collection, disclosure or use of vetting information under this section or section 104D, the information may be collected, disclosed or used despite any other Act or law. 17
18
19
Note. Section 111 makes it an offence for an officer or former officer of the Inspector or Commission to disclose information obtained in the exercise of functions under this Act. 20
21
22
- (8) This section does not restrict or prevent: 23
- (a) the Inspector or Commission or any other person from collecting, disclosing or using any information that the Inspector, Commission or other person may otherwise lawfully collect, disclose or use, or 24
25
26
27
- (b) the Inspector or Commission from considering information other than vetting information in determining whether or not to appoint an applicant as an officer of the Inspector or Commission. 28
29
30
31
- (9) In this section and section 104D: 32
appoint includes engage, make use of the services of and second. 33
law enforcement agency means the following: 34
- (a) the NSW Police Force, 35
- (b) a Police Force of another State or Territory, 36
- (c) the Australian Federal Police, 37

- (d) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of the State or another State or Territory. 1
2
3
- officer of the Inspector* includes a person engaged by the Inspector under section 57E (3). 4
5
- 104D Safeguards relating to use of vetting information** 6
- (1) The relevant body for a record must, for the period of 2 years commencing on the commencement of this section (the *review period*), keep a record of each occasion when vetting information about an associate or a relative of an applicant is considered under section 104C. 7
8
9
10
11
- (2) The relevant body is to record whether vetting information was the basis (wholly or partly) of a decision not to appoint the applicant and the information relied on for that purpose. 12
13
14
- (3) A person appointed by the Attorney General is to review the records kept under this section at the end of the review period. 15
16
- (4) The person appointed must be a person who is: 17
- (a) a former Judge of the Supreme Court of the State or of any other State or Territory, a former Judge of the Federal Court of Australia or a former Justice of the High Court of Australia, or 18
19
20
21
- (b) a person qualified to be appointed as (but who is not) a Judge or Justice of any such court. 22
23
- (5) The relevant body may, at the request of the person conducting the review, make available any records kept by the body under this section and any further information requested by the person that is reasonably related to the review. 24
25
26
27
- (6) The person conducting the review must, not later than 6 months after the end of the review period, report on the records to the Minister and the Attorney General and provide a copy of the report to the relevant body. 28
29
30
31
- (7) A report may contain recommendations relating to the collection, use and disclosure of vetting information under section 104C and related procedures or practices of the relevant body. 32
33
34
- (8) The *relevant body* for a record relating to the use of information about an associate or a relative of an applicant for appointment in a position: 35
36
37
- (a) as an officer of the Inspector—is the Inspector, or 38
- (b) as an officer of the Commission—is the Commission. 39

Independent Commission Against Corruption and Other Legislation
Amendment Bill 2013

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

[2] Section 111 Secrecy	1
Insert after section 111 (1) (b):	2
(c) a person who conducts a review under section 104D, but only in relation to the person's functions under that section, and	3 4 5
[3] Schedule 4 Savings, transitional and other provisions	6
Insert at the end of clause 1 (1):	7
any other Act that amends this Act	8
[4] Schedule 4	9
Insert at the end of the Schedule with appropriate Part and clause numbering:	10
Part Provisions consequent on enactment of Independent Commission Against Corruption and Other Legislation Amendment Act 2013	11 12 13 14
Previous collection, use and disclosure of vetting information	15
Any collection, use or disclosure of vetting information to or by the Inspector or the Commission that occurred before the commencement of section 104C, as inserted by the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> , is taken to have been validly done if the collection, use or disclosure would have been valid if done on or after that commencement.	16 17 18 19 20 21 22

Schedule 2 Amendment of Crime Commission Act 2012 No 66

[1] Sections 78A and 78B

Insert before section 79:

78A Vetting of prospective staff

- (1) Vetting information that is held by the Inspector or Commission or obtained under this section may be used in determining whether to appoint a person (an *applicant*) as an officer of the Inspector or the Commission.
- (2) For the purposes of this section, *vetting information* is information of the following kind about an applicant, or about an associate or relative of an applicant:
 - (a) any criminal intelligence report or other criminal information,
 - (b) information held in the Births, Deaths and Marriages Register,
 - (c) information held by Roads and Maritime Services relating to licences or other authorities, offences or penalties,
 - (d) information held by Corrective Services NSW, Department of Attorney General and Justice,
 - (e) information held by CrimTrac,
 - (f) information held by a law enforcement agency,
 - (g) information held by an agency of the Commonwealth or of the State or another State or Territory investigating public sector corruption,
 - (h) information held by an agency of a jurisdiction outside Australia, being an agency responsible for the enforcement of laws of that jurisdiction,
 - (i) information prescribed by the regulations that is held by a public authority or held by a Government agency of another jurisdiction (whether in or outside Australia).
- (3) The Inspector or Commission may, with the consent of an applicant, request a public authority or other person or body to disclose vetting information about the applicant.
- (4) The Inspector or Commission may also, without consent, request a public authority or other person or body (not being an agency of a jurisdiction outside Australia) to disclose vetting information about associates or relatives of the applicant.

Independent Commission Against Corruption and Other Legislation
Amendment Bill 2013

Schedule 2 Amendment of Crime Commission Act 2012 No 66

- (5) A public authority that holds, or is responsible for the disclosure of, vetting information is authorised to disclose the information to the Inspector or Commission for the purposes of this section. 1
2
3
- (6) The Commissioner of Police is authorised at any time to disclose (or arrange for a member of the NSW Police Force to disclose) to the Inspector or Commission information about the criminal history of a person for the purposes of this section, including the following: 4
5
6
7
8
- (a) information relating to spent convictions, despite anything to the contrary in the *Criminal Records Act 1991*, 9
10
- (b) information relating to criminal charges, whether or not heard, proven, dismissed, withdrawn or discharged, 11
12
- (c) information relating to offences, despite anything to the contrary in section 579 of the *Crimes Act 1900*. 13
14
- (7) For the purposes of the collection, disclosure or use of vetting information under this section or section 78B, the information may be collected, disclosed or used despite any other Act or law. 15
16
17
Note. Section 80 makes it an offence for an officer or former officer of the Inspector or Commission to disclose information obtained in the exercise of functions under this Act. 18
19
20
- (8) This section does not restrict or prevent: 21
- (a) the Inspector or Commission or any other person from collecting, disclosing or using any information that the Inspector, Commission or other person may otherwise lawfully collect, disclose or use, or 22
23
24
25
- (b) the Inspector or Commission from considering information other than vetting information in determining whether or not to appoint an applicant as an officer of the Inspector or Commission. 26
27
28
29
- (9) In this section and section 78B: 30
- appoint** includes engage, make use of the services of and second. 31
- law enforcement agency** means the following: 32
- (a) the NSW Police Force, 33
- (b) a Police Force of another State or Territory, 34
- (c) the Australian Federal Police, 35
- (d) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of the State or another State or Territory. 36
37
38

<i>public authority</i> has the same meaning as it has in the <i>Independent Commission Against Corruption Act 1988</i> .	1 2
78B Safeguards relating to use of vetting information	3
(1) The relevant body for a record must, for the period of 2 years commencing on the commencement of this section (the <i>review period</i>), keep a record of each occasion when vetting information about an associate or a relative of an applicant is considered under section 78A.	4 5 6 7 8
(2) The relevant body is to record whether vetting information was the basis (wholly or partly) of a decision not to appoint the applicant and the information relied on for that purpose.	9 10 11
(3) A person appointed by the Attorney General is to review the records kept under this section at the end of the review period.	12 13
(4) The person appointed must be a person who is:	14
(a) a former Judge of the Supreme Court of the State or of any other State or Territory, a former Judge of the Federal Court of Australia or a former Justice of the High Court of Australia, or	15 16 17 18
(b) a person qualified to be appointed as (but who is not) a Judge or Justice of any such court.	19 20
(5) The relevant body may, at the request of the person conducting the review, make available any records kept by the body under this section and any further information requested by the person that is reasonably related to the review.	21 22 23 24
(6) The person conducting the review must, not later than 6 months after the end of the review period, report on the records to the Minister and the Attorney General and provide a copy of the report to the relevant body.	25 26 27 28
(7) A report may contain recommendations relating to the collection, use and disclosure of vetting information under section 78A and related procedures or practices of the relevant body.	29 30 31
(8) The <i>relevant body</i> for a record relating to the use of information about an associate or a relative of an applicant for appointment in a position:	32 33 34
(a) as an officer of the Inspector—is the Inspector, or	35
(b) as an officer of the Commission—is the Commission.	36

[2] Section 80 Secrecy	1
Insert after section 80 (1):	2
(1A) This section applies to a person conducting a review under section 78B in relation to the person’s functions under that section.	3 4 5
[3] Schedule 2 Provisions relating to the members and procedure of the Management Committee	6 7
Insert “a former Judge of the District Court of New South Wales,” before “a former Judge” where firstly occurring in clause 2 (1).	8 9
[4] Schedule 4 Savings, transitional and other provisions	10
Insert after Part 2:	11
Part 3 Provisions relating to Independent Commission Against Corruption and Other Legislation Amendment Act 2013	12 13 14
10 Validation	15
A person who was appointed to the Management Committee before the commencement of Schedule 2 [3] to the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> and who would be eligible to be so appointed on that commencement is taken to have been validly appointed from the date of the person’s appointment.	16 17 18 19 20 21
11 Previous collection, use and disclosure of vetting information	22
Any collection, use or disclosure of vetting information to or by the Inspector or the Commission that occurred before the commencement of section 78A, as inserted by the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> , is taken to have been validly done if the collection, use or disclosure would have been valid if done on or after that commencement.	23 24 25 26 27 28 29

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

1
2

Section 13AA Preliminary inquiries

3

Insert after section 13AA (3):

4

- (4) A public authority that discloses information to the Ombudsman in response to an inquiry under this section is not required to comply with section 16, 17, 18 or 19 (1) of the *Privacy and Personal Information Protection Act 1998*.

5
6
7
8

Schedule 4	Amendment of Police Act 1990 No 47	1
[1]	Sections 96B–96D	2
	Insert after section 96A:	3
96B	Vetting of prospective members of NSW Police Force or consultants	4
		5
(1)	Vetting information that is held by the Commissioner or obtained under this section may be used in determining whether to appoint an applicant as a member of the NSW Police Force or to engage an applicant as a consultant to the NSW Police Force.	6
		7
		8
		9
(2)	For the purposes of this section, <i>vetting information</i> is information of the following kind about an applicant, or about an associate or relative of an applicant:	10
		11
		12
(a)	any criminal intelligence report or other criminal information,	13
		14
(b)	information held in the Births, Deaths and Marriages Register,	15
		16
(c)	information held by Roads and Maritime Services relating to licences or other authorities, offences or penalties,	17
		18
(d)	information held by Corrective Services NSW, Department of Attorney General and Justice,	19
		20
(e)	information held by CrimTrac,	21
(f)	information held by a law enforcement agency,	22
(g)	information held by an agency of the Commonwealth or of the State or another State or Territory investigating public sector corruption,	23
		24
		25
(h)	information held by an agency of a jurisdiction outside Australia, being an agency responsible for the enforcement of laws of that jurisdiction,	26
		27
		28
(i)	information prescribed by the regulations that is held by a public authority or held by a Government agency of another jurisdiction (whether in or outside Australia).	29
		30
		31
(3)	The Commissioner may, with the consent of an applicant, request a public authority or other person or body to disclose vetting information about the applicant.	32
		33
		34
(4)	The Commissioner may also, without consent, request a public authority or other person or body (not being an agency of a jurisdiction outside Australia) to disclose vetting information about associates or relatives of the applicant.	35
		36
		37
		38

-
- (5) A public authority that holds, or is responsible for the disclosure of, vetting information is authorised to disclose the information to the Commissioner for the purposes of this section. 1
2
3
- (6) The following information about the criminal history of a person may be disclosed and considered for the purposes of this section: 4
5
- (a) information relating to spent convictions, despite anything to the contrary in the *Criminal Records Act 1991*, 6
7
- (b) information relating to criminal charges, whether or not heard, proven, dismissed, withdrawn or discharged, 8
9
- (c) information relating to offences, despite anything to the contrary in section 579 of the *Crimes Act 1900*. 10
11
- (7) For the purposes of the collection, disclosure or use of vetting information under this section or section 96C, the information may be collected, disclosed or used despite any other Act or law. 12
13
14
- Note.** Section 62 of the *Privacy and Personal Information Protection Act 1998* makes it an offence for a public sector official (including a member of the NSW Police Force) to disclose personal information, other than for official purposes, about a person to which the official has had access in an official capacity. 15
16
17
18
19
- (8) This section does not restrict or prevent: 20
- (a) the Commissioner or any other person from collecting, disclosing or using any information that the Commissioner or other person may otherwise lawfully collect, disclose or use, or 21
22
23
24
- (b) the Commissioner from considering information other than vetting information in determining whether or not to appoint an applicant as a member of the NSW Police Force or to engage an applicant as a consultant to the NSW Police Force. 25
26
27
28
29
- (9) In this section: 30
- law enforcement agency** means the following: 31
- (a) a Police Force of another State or Territory, 32
- (b) the Australian Federal Police, 33
- (c) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of the State or another State or Territory. 34
35
36
- public authority** has the same meaning as it has in the *Independent Commission Against Corruption Act 1988*. 37
38

96C	Safeguards relating to use of vetting information	1
(1)	The Commissioner must, for the period of 2 years commencing on the commencement of this section (the <i>review period</i>), keep a record of each occasion when vetting information about an associate or a relative of an applicant is considered under section 96B.	2 3 4 5 6
(2)	The Commissioner is to record whether vetting information was the basis (wholly or partly) of a decision not to appoint or engage the applicant and the information relied on for that purpose.	7 8 9
(3)	A person appointed by the Attorney General is to review the records kept under this section at the end of the review period.	10 11
(4)	The person appointed must be a person who is:	12
(a)	a former Judge of the Supreme Court of the State or of any other State or Territory, a former Judge of the Federal Court of Australia or a former Justice of the High Court of Australia, or	13 14 15 16
(b)	a person qualified to be appointed as (but who is not) a Judge or Justice of any such court.	17 18
(5)	The Commissioner may, at the request of the person conducting the review, make available any records kept by the Commissioner under this section and any further information requested by the person that is reasonably related to the review.	19 20 21 22
(6)	The person conducting the review must, not later than 6 months after the end of the review period, report on the records to the Minister and the Attorney General and provide a copy of the report to the Commissioner.	23 24 25 26
(7)	A report may contain recommendations relating to the collection, use and disclosure of vetting information under section 96B and related procedures or practices of the Commissioner.	27 28 29
96D	Secrecy—review information	30
(1)	The person who conducts the review under section 96C must not, directly or indirectly, except for the purposes of this Act or otherwise in connection with the exercise of the person's functions under this Act:	31 32 33 34
(a)	make a record of any communication, or	35
(b)	divulge or communicate to any person any information,	36
	being information acquired by the person by reason of, or in the course of, the exercise of the person's functions under this Act.	37 38

(2)	The person who conducts the review under section 96C cannot be required:	1
		2
(a)	to produce in any court any document or other thing that has come into the person's possession, custody or control by reason of, or in the course of, the exercise of the person's functions under this Act, or	3
		4
		5
		6
(b)	to divulge or communicate to any court any matter or thing that has come to the person's notice in the exercise of the person's functions under this Act.	7
		8
		9
(3)	Despite this section, the person may divulge any such information:	10
		11
(a)	for the purposes of and in accordance with this Act, or	12
(b)	to any prescribed authority or person.	13
[2]	Schedule 4 Savings, transitional and other provisions	14
	Insert at the end of the Schedule with appropriate Part and clause numbering:	15
Part	Provisions consequent on enactment of Independent Commission Against Corruption and Other Legislation Amendment Act 2013	16
		17
		18
		19
	Previous collection, use and disclosure of vetting information	20
	Any collection, use or disclosure of vetting information to or by the Commissioner that occurred before the commencement of section 96B, as inserted by the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> , is taken to have been validly done if the collection, use or disclosure would have been valid if done on or after that commencement.	21
		22
		23
		24
		25
		26

Schedule 5	Amendment of Police Integrity Commission Act 1996 No 28	1
		2
[1] Section 56 Secrecy		3
Insert at the end of section 56 (1) (e):		4
, and		5
(f) a person who conducts a review under section 136B, but only in relation to the exercise of the person’s functions under that section.		6
		7
		8
[2] Section 124 Firearms and other police equipment		9
Insert “or appropriately trained officers” after “police officers” where secondly occurring in section 124 (1) and (2).		10
		11
[3] Section 124 (2)		12
Omit “handcuffs and body armour vests”.		13
Insert instead “anti-personnel spray, batons, magazines for semi-automatic pistols, handcuffs and body armour vests”.		14
		15
[4] Section 124 (3)		16
Insert after section 124 (2):		17
(3) An officer is an <i>appropriately trained officer</i> if the Commissioner certifies in writing that the officer is an appropriately trained officer for the purposes of this section.		18
		19
		20
[5] Sections 136A and 136B		21
Insert after section 136:		22
136A Vetting of prospective staff or consultants		23
(1) Vetting information that is held by the Inspector or Commission or obtained under this section may be used in determining whether to appoint a person (an <i>applicant</i>) as an officer of the Inspector or the Commission.		24
		25
		26
		27
(2) For the purposes of this section, <i>vetting information</i> is information of the following kind about an applicant, or about an associate or relative of an applicant:		28
		29
		30
(a) any criminal intelligence report or other criminal information,		31
		32
(b) information held in the Births, Deaths and Marriages Register,		33
		34

-
- | | | |
|-----|---|----------------------------|
| (c) | information held by Roads and Maritime Services relating to licences or other authorities, offences or penalties, | 1
2 |
| (d) | information held by Corrective Services NSW, Department of Attorney General and Justice, | 3
4 |
| (e) | information held by CrimTrac, | 5 |
| (f) | information held by a law enforcement agency, | 6 |
| (g) | information held by an agency of the Commonwealth or of the State or another State or Territory investigating public sector corruption, | 7
8
9 |
| (h) | information held by an agency of a jurisdiction outside Australia, being an agency responsible for the enforcement of laws of that jurisdiction, | 10
11
12 |
| (i) | information prescribed by the regulations that is held by a public authority or held by a Government agency of another jurisdiction (whether in or outside Australia). | 13
14
15 |
| (3) | The Inspector or Commission may, with the consent of an applicant, request a public authority or other person or body to disclose vetting information about the applicant. | 16
17
18 |
| (4) | The Inspector or Commission may also, without consent, request a public authority or other person or body (not being an agency of a jurisdiction outside Australia) to disclose vetting information about associates or relatives of the applicant. | 19
20
21
22 |
| (5) | A public authority that holds, or is responsible for the disclosure of, vetting information is authorised to disclose the information to the Inspector or Commission for the purposes of this section. | 23
24
25 |
| (6) | The Commissioner of Police is authorised at any time to disclose (or arrange for a member of the NSW Police Force to disclose) to the Inspector or Commission information about the criminal history of a person for the purposes of this section, including the following: | 26
27
28
29
30 |
| (a) | information relating to spent convictions, despite anything to the contrary in the <i>Criminal Records Act 1991</i> , | 31
32 |
| (b) | information relating to criminal charges, whether or not heard, proven, dismissed, withdrawn or discharged, | 33
34 |
| (c) | information relating to offences, despite anything to the contrary in section 579 of the <i>Crimes Act 1900</i> . | 35
36 |

- (7) For the purposes of the collection, disclosure or use of vetting information under this section or section 136B the information may be collected, disclosed or used despite any other Act or law. 1
2
3
Note. Section 56 makes it an offence for an officer or former officer of the Inspector or Commission to disclose information obtained in the exercise of functions under this Act. 4
5
6
- (8) This section does not restrict or prevent: 7
- (a) the Inspector or Commission or any other person from collecting, disclosing or using any information that the Inspector, Commission or other person may otherwise lawfully collect, disclose or use, or 8
9
10
11
- (b) the Inspector or Commission from considering information other than vetting information in determining whether or not to appoint an applicant as an officer of the Inspector or Commission. 12
13
14
15
- (9) In this section and section 136B: 16
appoint includes engage, make use of the services of and second. 17
law enforcement agency means the following: 18
- (a) the NSW Police Force, 19
- (b) a Police Force of another State or Territory, 20
- (c) the Australian Federal Police, 21
- (d) any other authority or person responsible for the enforcement of the laws of the Commonwealth or of the State or another State or Territory. 22
23
24
- 136B Safeguards relating to use of vetting information** 25
- (1) The relevant body for a record must, for the period of 2 years commencing on the commencement of this section (the *review period*), keep a record of each occasion when vetting information about an associate or a relative of an applicant is considered under section 136A. 26
27
28
29
30
- (2) The relevant body is to record whether vetting information was the basis (wholly or partly) of a decision not to appoint the applicant and the information relied on for that purpose. 31
32
33
- (3) A person appointed by the Attorney General is to review the records kept under this section at the end of the review period. 34
35
- (4) The person appointed must be a person who is: 36
- (a) a former Judge of the Supreme Court of the State or of any other State or Territory, a former Judge of the Federal 37
38

	Court of Australia or a former Justice of the High Court of Australia, or	1
		2
	(b) a person qualified to be appointed as (but who is not) a Judge or Justice of any such court.	3
		4
(5)	The relevant body may, at the request of the person conducting the review, make available any records kept by the body under this section and any further information requested by the person that is reasonably related to the review.	5
		6
		7
		8
(6)	The person conducting the review must, not later than 6 months after the end of the review period, report on the records to the Minister and the Attorney General and provide a copy of the report to the relevant body.	9
		10
		11
		12
(7)	A report may contain recommendations relating to the collection, use and disclosure of vetting information under section 136A and related procedures or practices of the relevant body.	13
		14
		15
(8)	The <i>relevant body</i> for a record relating to the use of information about an associate or a relative of an applicant for appointment in a position:	16
		17
		18
	(a) as an officer of the Inspector—is the Inspector, or	19
	(b) as an officer of the Commission—is the Commission.	20
[6]	Schedule 3 Savings, transitional and other provisions	21
	Insert at the end of the Schedule with appropriate Part and clause numbering:	22
Part	Provisions consequent on enactment of Independent Commission Against Corruption and Other Legislation Amendment Act 2013	23
		24
		25
		26
	Previous collection, use and disclosure of vetting information	27
	Any collection, use or disclosure of vetting information to or by the Inspector or the Commission that occurred before the commencement of section 136A, as inserted by the <i>Independent Commission Against Corruption and Other Legislation Amendment Act 2013</i> , is taken to have been validly done if the collection, use or disclosure would have been valid if done on or after that commencement.	28
		29
		30
		31
		32
		33
		34

Schedule 6	Amendment of Young Offenders Act	1
	1997 No 54	2
[1]	Section 17 Records of warnings	3
	Insert “or the Ombudsman” after “Bureau of Crime Statistics and Research” in section 17 (4).	4 5
[2]	Section 17 (4)	6
	Insert “or Ombudsman” after “Bureau” where secondly occurring.	7
[3]	Section 66 Disclosure of records	8
	Insert after section 66 (2):	9
	(2A) Despite subsection (1), information (including records) referred to in that subsection may (subject to any regulations made for the purposes of subsection (3)) be divulged to the Ombudsman, or a person authorised by the Ombudsman, for the purposes of the exercise of any of the functions of the Ombudsman.	10 11 12 13 14
[4]	Section 66 (3)	15
	Insert “or (2A)” after “subsection (2) (e) or (f)”.	16