

LAW ENFORCEMENT CONDUCT COMMISSION BILL 2016

Schedule of the amendments proposed by the Legislative Council on 8 November 2016.

No. 1 **OPP No. 2 [c2016-080B]**

Pages 14 and 15, clause 19, line 27 on page 14 to line 9 on page 15. Omit all words on those lines. Insert instead:

19 Exercise of Commission's functions

- (1) Except as otherwise provided by this section, the functions of the Commission are exercisable by a Commissioner, and any act, matter or thing done in the name of, or on behalf of, the Commission by a Commissioner is taken to have been done by the Commission.
- (2) A decision of the Commission to exercise any of the following functions must be authorised by the Chief Commissioner and at least one other Commissioner:
 - (a) a decision under sections 44 (1) (a) and 51 (1), made after taking into account the relevant factors set out in sections 45 and 46, that conduct is (or could be) serious misconduct, serious maladministration, police misconduct, Crime Commission officer misconduct, officer maladministration or agency maladministration and should be investigated,
 - (b) a decision to hold an examination under Division 3 of Part 6 (except where there is a duty to hold an examination into conduct referred by Parliament for investigation under section 196),
 - (c) a decision under Division 3 of Part 6 to hold an examination (or part of an examination) in public,
 - (d) a decision under section 79 (2) that there are reasonable grounds to issue a search warrant,
 - (e) a decision under section 23 (1) to delegate a function of the Commission.
- (3) A decision of the Commission referred to in subsection (2) is presumed to have been duly authorised unless the contrary is established.
- (4) Except as provided by subsection (2), a decision of the Chief Commissioner prevails in the event of an inconsistency in the decisions of Commissioners with respect to a matter.

No. 2 **CDP No. 1 [c2016-074G]**

Page 34, clause 57 (2), line 42. Insert "This subsection extends to any further information, document or other thing obtained as a direct or indirect consequence of the statement, document or other thing produced." after "and (5)).".

No. 3 **CDP No. 2 [c2016-074G]**

Page 41, clause 74 (3), line 6. Omit "is admissible in evidence". Insert instead "may be used".

No. 4 **CDP No. 3 [c2016-074G]**

Page 41, clause 74 (3). Insert after line 11:

This subsection extends to any further information, document or other thing obtained as a direct or indirect consequence of the answer made or document or other thing produced.

No. 5 **CDP No. 4 [c2016-074G]**
Page 124, Schedule 5.1 [37], lines 3–14. Omit all words on those lines.

No. 6 **CDP No. 5[c2016-074G]**
Page 136, Schedule 6.16. Insert after line 17:

[1] Section 15A Disclosures by law enforcement officers

Omit “alleged indictable offences” and “alleged indictable offence” wherever occurring.

Insert instead “alleged offences” and “alleged offence”, respectively.

[2] Section 15A (1A)

Omit the subsection. Insert instead:

- (1A) The duty of disclosure arises only if the Director exercises any function under this Act with respect to the prosecution of the offence (including in connection with a law enforcement officer seeking advice from the Director under section 14A of the *Criminal Procedure Act 1986* about the commencement of proceedings for an offence).

[3] Section 15A (6)–(8)

Omit the subsections.

Insert instead:

- (6) The duty imposed by this section does not require law enforcement officers to provide to the Director any information, documents or other things:
- (a) that are the subject of a claim of privilege, public interest immunity or statutory immunity, or
 - (b) that would contravene a statutory publication restriction if so provided.
- (7) The duty of a law enforcement officer in such a case is to inform the Director of:
- (a) the existence of any information, document or other thing of that kind, and
 - (b) the nature of that information, document or other thing and the claim or publication restriction relating to it.

However, a law enforcement officer must provide to the Director any information, document or other thing of that kind if the Director requests it to be provided.

No. 7 **CDP No. 6 [c2016-074G]**
Page 136, Schedule 6.17. Insert after line 36:

[2] Schedule 1 Disclosure certificate (for prosecutions and advisings)

Insert “or summary” after “indictable” wherever occurring.

[3] Schedule 1

Insert “if the DPP is involved in the prosecution of the offence” after “all relevant material” in the matter appearing under the heading “**Acknowledgement**”.

[3] Schedule 1

Omit “but only to the extent not prohibited by the statutory prohibition certificate” in the matter appearing under the heading “**Certification**”.
Insert instead “and provide the material to the DPP on request”.
