

Passed by both Houses



New South Wales

ICAC and LECC Legislation Amendment Bill 2023

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council
2023

Clerk of the Parliaments



New South Wales

ICAC and LECC Legislation Amendment Bill 2023

Act No , 2023

An Act to amend the *Independent Commission Against Corruption Act 1988* and the *Law Enforcement Conduct Commission Act 2016* to implement responses to recommendations of the Joint Committee on the Independent Commission Against Corruption.

The Legislature of New South Wales enacts—

1 Name of Act

This Act is the *ICAC and LECC Legislation Amendment Act 2023*.

2 Commencement

This Act commences as follows—

- (a) for Schedule 1[2]—on the day that is 3 months after the date of assent to this Act,
- (b) otherwise—on the date of assent to this Act.

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

[1] **Section 57C Powers of Inspector**

Insert at the end of the section—

- (2) If the Inspector makes a recommendation or report to the Commission in exercising functions under section 57B, the Inspector may require the Commission to give the Inspector, within a reasonable time specified by the Inspector—
 - (a) advice about whether the Commission intends to implement the recommendation or report, and
 - (b) if the Commission does not intend to implement the recommendation or report—the reasons for not implementing the recommendation or report.
- (3) If the Inspector is not satisfied the Commission has duly and properly taken action in relation to the recommendation or report made to the Commission by the Inspector, the Inspector must—
 - (a) inform the Commission of the grounds of the Inspector's dissatisfaction, and
 - (b) give the Commission an opportunity to comment within a specified time.
- (4) If, after considering any comments received from the Commission within the specified time, the Inspector is still not satisfied, the Inspector may make a report to the Presiding Officer of each House of Parliament setting out—
 - (a) the Inspector's recommendation or report, and
 - (b) the grounds of the Inspector's dissatisfaction, and
 - (c) any comments from the Commission and the Inspector.

[2] **Section 74E**

Insert after section 74D—

74E Publication of information about time within which investigations and reports on referred matters to be completed

- (1) The Commission must publish, on a website maintained by the Commission, information (*time standards*) about the time within which reports under section 74 will be prepared and given to the Presiding Officer of each House of Parliament under the section.
- (2) The time standards must include the following—
 - (a) the standard timeframes adopted by the Commission for preparing reports and providing the reports to the Presiding Officer of each House of Parliament under section 74,
 - (b) how the Commission monitors the progress of the preparation of the reports to ensure the reports are dealt with promptly,
 - (c) what action the Commission takes if the standard timeframes for the preparation of a report are not met.
- (3) The Commission must, in each report prepared under section 74—

- (a) report on the Commission’s performance against the time standards in relation to preparing the report and providing the report to the Presiding Officer of each House of Parliament, and
- (b) give reasons for any failure to comply with the time standards in relation to the preparation of the report.

Note— The information in this subsection must also be included in the Commission’s annual report under section 76.

[3] Section 76 Annual reports

Insert after section 76(2)(ba)—

- (bb) for each report prepared under section 74—the information referred to in section 74E(3)(a) and (b),

[4] Section 112 Restriction on publication of evidence

Omit “to a person who has given or may be about to give evidence at a compulsory examination or public inquiry.” from section 112(3).

Insert instead—

to a person who—

- (a) has given or may be about to give evidence at a compulsory examination or public inquiry, or
- (b) has been given a notice under section 21 requiring the person to produce a statement of information, or
- (c) has been given a notice under section 22 requiring the person to attend before a person specified in the notice to produce a document or other thing specified in the notice.

[5] Section 114 Disclosures prejudicing investigations

Omit “to a person required to give evidence by a summons under section 35.” from section 114(3)(d).

Insert instead—

to a person—

- (a) required by a summons under section 35 to give evidence, or
- (b) required by a notice under section 21 to produce a statement of information, or
- (c) required by a notice under section 22 to attend before a person specified in the notice to produce a document or other thing specified in the notice.

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

Omit “5 years” from clause 4(2). Insert instead “10 years”.

[7] Schedule 3 Rights of certain staff of Commission

Omit “Commissioner” in clause 2(4) and (5)(b). Insert instead “Chief Commissioner”.

[8] Schedule 4 Savings, transitional and other provisions

Insert after clause 44—

Part 17 Provision consequent on enactment of ICAC and LECC Legislation Amendment Act 2023

45 Extension of term of office for Commissioners

- (1) This clause applies in relation to a Commissioner who held office immediately before the commencement of this clause.
- (2) The Governor may, by instrument, extend the term of office of the Commissioner by a period, not more than 12 months, specified in the instrument.

Schedule 2 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

Omit “Acting” from clause 1, heading.

Insert instead “Appointment by Governor or Minister of acting”.

[2] Schedule 1, clause 1(5)

Omit “4 weeks”.

Insert instead “30 days”.

[3] Schedule 1, clause 1A

Insert after clause 1—

1A Appointment by Chief Commissioner of acting Commissioners

- (1) The Chief Commissioner may—
 - (a) from time to time, appoint—
 - (i) a Commissioner to act as Chief Commissioner during the absence of the Chief Commissioner for a period of not more than 30 days, or
 - (ii) appoint an officer of the Commission with special legal qualifications to act as a Commissioner, other than the Chief Commissioner, for a period of not more than 30 days, and
 - (b) revoke an appointment under paragraph (a)(i) or (ii).
- (2) An appointment of an acting Commissioner is revoked—
 - (a) if the appointment is revoked under subclause (1)(b), or
 - (b) on the appointment of an acting Commissioner to the office by the Governor or Minister.
- (3) An acting Commissioner appointed by the Chief Commissioner to act in an office is entitled to be paid the remuneration, including any allowances, to which a person who holds the office is entitled.

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

Omit “5 years” from clause 5(2). Insert instead “10 years”.