



Law Enforcement Integrity Commissioner Regulations 2017

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 23 March 2017

Peter Cosgrove
Governor-General

By His Excellency's Command

Michael Keenan
Minister for Justice

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Part 1—Preliminary

1 Name

This instrument is the *Law Enforcement Integrity Commissioner Regulations 2017*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 21 and Schedule 1	The day after this instrument is registered.	25 March 2017
2. Schedule 2, Part 1	The later of: (a) the day after this instrument is registered; and (b) the day section 51 of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW) commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	1 July 2017 (paragraph (b) applies)
3. Schedule 2, Part 2	The day after this instrument is registered.	25 March 2017

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Law Enforcement Integrity Commissioner Act 2006*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

Section 5

- (a) ACLEI corruption issue;
- (b) corrupt conduct;
- (c) corruption issue;
- (d) law enforcement agency;
- (e) special investigator.

In this instrument:

ACLEI investigator means a special investigator or the Integrity Commissioner.

Act means the *Law Enforcement Integrity Commissioner Act 2006*.

Integrated Cargo System means the system of that name administered by the Immigration and Border Protection Department.

relevant corruption issue: see subsection 18(4).

Part 2—Provisions relating to definitions in the Act

6 Integrity agencies for States and Territories

For the purposes of the definition of *integrity agency* in subsection 5(1) of the Act, an agency mentioned in an item of the following table is prescribed as an integrity agency for the State or Territory mentioned in the item.

Integrity agencies		
Item	State or Territory	Agency
1	New South Wales	the Police Integrity Commission constituted by the <i>Police Integrity Commission Act 1996</i> (NSW)
2	Victoria	the Independent Broad-based Anti-corruption Commission established by the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> (Vic)
3	Queensland	the Crime and Corruption Commission established under the <i>Crime and Corruption Act 2001</i> (Qld)
4	Western Australia	the Corruption and Crime Commission established by the <i>Corruption, Crime and Misconduct Act 2003</i> (WA)
5	South Australia	each of the following: (a) the agency made up of the Police Ombudsman appointed under the <i>Police (Complaints and Disciplinary Proceedings) Act 1985</i> (SA) and the members of the staff of the Ombudsman; (b) the agency made up of the Independent Commissioner Against Corruption appointed under the <i>Independent Commissioner Against Corruption Act 2012</i> (SA) and the members of the staff of the Commissioner
6	Tasmania	each of the following: (a) the agency made up of the Ombudsman appointed under the <i>Ombudsman Act 1978</i> (Tas.) and the members of the staff of the Ombudsman; (b) the Integrity Commission established by the <i>Integrity Commission Act 2009</i> (Tas.)
7	Northern Territory	the agency made up of the Ombudsman appointed under the <i>Ombudsman Act</i> (NT) and the officers of the Ombudsman's Office

7 Staff members of the Agriculture Department

For the purposes of subsection 10(2E) of the Act, the following classes of persons are prescribed:

- (a) persons who hold, or are acting in, the position of Regional Manager of the Agriculture Department;
- (b) members of staff of the Agriculture Department whose duties include undertaking assessment, clearance or control of vessels or cargo imported into Australia;
- (c) members of staff of the Agriculture Department who have access to the Integrated Cargo System.

Section 8

Part 3—Integrity Commissioner's powers in conducting investigations and public inquiries

8 Allowances for travelling and other expenses to be paid to witnesses

Allowances

- (1) For the purposes of subsection 83(6) of the Act, the allowances mentioned in an item of the following table are prescribed in relation to the witness mentioned in the item.

Allowances for travelling and other expenses		
Item	Witness	Allowance
1	A person summoned to appear as a witness at a hearing because of the person's professional, scientific or other special skill or knowledge	For each day on which the person attends as a witness, the daily rate specified by the <i>Royal Commissions Regulations 2001</i> for expenses of a witness who possesses that skill or knowledge
2	A person summoned to appear as a witness at a hearing for any other reason	The following: <ul style="list-style-type: none"> (a) if the person is paid in his or her occupation by wages, salary or fees—an amount that is equal to the amount of wages, salary or fees not paid to the person because of the person's attendance as a witness; (b) in any other case—for each day on which the person attends as a witness, the daily rate specified by the <i>Royal Commissions Regulations 2001</i> for expenses of a witness called for a reason other than that mentioned in item 1
3	A person summoned to appear as a witness at a hearing	In addition to item 1 or 2, the amount that the person mentioned in paragraph (2)(a) decides is reasonable for: <ul style="list-style-type: none"> (a) the cost of transport to the location of the hearing; and (b) meals and accommodation

Decision made under item 3 of the table in subsection (1)

- (2) For the purposes of item 3 of the table in subsection (1):
- (a) the person (the **decision-maker**) is a staff member of ACLEI who is an SES employee or acting SES employee; and
 - (b) the decision-maker must take into account the following matters when deciding the amount that is reasonable in relation to the witness (the **affected witness**):
 - (i) the distance travelled by the affected witness specifically to appear at the hearing;

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- (ii) whether the affected witness had to be absent overnight from the affected witness's usual place of residence specifically to appear at the hearing;
 - (iii) the amount paid to the affected witness under item 1 or 2 of the table in subsection (1);
 - (iv) any other matter the decision-maker considers relevant.
- (3) As soon as practicable after making a decision (the **initial decision**) under item 3 of the table in subsection (1), the decision-maker must notify the affected witness, in writing, of:
- (a) the initial decision; and
 - (b) the reasons for the initial decision; and
 - (c) particulars of the affected witness's right to have the initial decision reviewed under this section.

Internal review of initial decision

- (4) The affected witness may request the Integrity Commissioner, in writing, to review the initial decision.
- (5) The request must:
- (a) be made within 14 days after the day on which the affected witness is notified of the initial decision, or within a longer period (if any) allowed by the Integrity Commissioner (whether before or after the end of that 14 day period); and
 - (b) set out the reasons for making the request.
- (6) The Integrity Commissioner must review the initial decision:
- (a) personally; and
 - (b) as soon as practicable after receiving the request.
- (7) The Integrity Commissioner may:
- (a) affirm, vary or revoke the initial decision; and
 - (b) if the initial decision is revoked, make such other decision as the Integrity Commissioner thinks appropriate.
- (8) The Integrity Commissioner must notify the affected witness, in writing, within 30 days after receiving the request, of:
- (a) the decision under subsection (7); and
 - (b) the reasons for that decision.

9 Form of identity card for authorised officers

For the purposes of paragraph 141(2)(a) of the Act, the form set out in Schedule 1 is prescribed as the form for an identify card for an authorised officer.

Part 4—Annual reports

10 Prescribed particulars for annual report

For the purposes of paragraph 201(a) of the Act, this Part prescribes the particulars to be included in an annual report for a period.

11 Corruption issues notified to Integrity Commissioner

- (1) For corruption issues notified to the Integrity Commissioner as described in subparagraph 201(a)(i) of the Act, the particulars are the following for each law enforcement agency in relation to which a corruption issue of that kind was notified:
 - (a) the number of corruption issues of that kind;
 - (b) a description of the kinds of corrupt conduct to which the corruption issues relate;
 - (c) the number of the corruption issues that relate to each kind of corrupt conduct;
 - (d) the number of the corruption issues in relation to which the Integrity Commissioner decided to take no further action;
 - (e) the Integrity Commissioner's reasons for deciding to take no further action for each corruption issue mentioned in paragraph (d);
 - (f) the number of the corruption issues for which the law enforcement agency conducted an investigation that is being, or was, managed by the Integrity Commissioner;
 - (g) the number of the corruption issues for which the law enforcement agency conducted an investigation that is being, or was, overseen by the Integrity Commissioner.
- (2) For the purposes of paragraph (1)(c), if a corruption issue relates to more than one kind of corrupt conduct, the corruption issue need only be counted in relation to one of those kinds of corrupt conduct.

12 Corruption issues raised by allegations or information referred to Integrity Commissioner

- (1) For corruption issues raised by allegations or information referred to the Integrity Commissioner as described in subparagraph 201(a)(ii) of the Act, the particulars are the following for each law enforcement agency in relation to which a corruption issue of that kind was raised:
 - (a) the number of corruption issues of that kind;
 - (b) a description of the kinds of corrupt conduct to which the corruption issues relate;
 - (c) the number of the corruption issues that relate to each kind of corrupt conduct;
 - (d) the number of the corruption issues in relation to which the Integrity Commissioner decided to take no further action;

- (e) the Integrity Commissioner's reasons for deciding to take no further action for each corruption issue mentioned in paragraph (d).
- (2) For the purposes of paragraph (1)(c), if a corruption issue relates to more than one kind of corrupt conduct, the corruption issue need only be counted in relation to one of those kinds of corrupt conduct.

13 Corruption issues dealt with by Integrity Commissioner on own initiative

- (1) For corruption issues dealt with by the Integrity Commissioner on his or her own initiative as described in subparagraph 201(a)(iii) of the Act, the particulars are the following for each law enforcement agency in relation to which a corruption issue of that kind was dealt with:
- (a) the number of corruption issues of that kind;
 - (b) a description of the kinds of corrupt conduct to which the corruption issues relate;
 - (c) the number of the corruption issues that relate to each kind of corrupt conduct.
- (2) For the purposes of paragraph (1)(c), if a corruption issue relates to more than one kind of corrupt conduct, the corruption issue need only be counted in relation to one of those kinds of corrupt conduct.

14 Corruption issues investigated by Integrity Commissioner

- (1) For corruption issues investigated by the Integrity Commissioner as described in subparagraph 201(a)(iv) of the Act, the particulars are the following for each law enforcement agency in relation to which a corruption issue of that kind was investigated:
- (a) the number of corruption issues of that kind;
 - (b) a description of the kinds of corrupt conduct to which the corruption issues relate;
 - (c) the number of the corruption issues that relate to each kind of corrupt conduct;
 - (d) the number of the corruption issues for which investigations by the Integrity Commissioner were completed;
 - (e) for the investigations that were completed—a summary of the outcomes of the investigations, including the following:
 - (i) any recommendations made by the Integrity Commissioner;
 - (ii) any action taken as a result of the investigations;
 - (iii) if any disciplinary proceedings, criminal proceedings or civil penalty proceedings resulting from the investigations were commenced—the outcomes of the proceedings.
- (2) For the purposes of paragraph (1)(c), if a corruption issue relates to more than one kind of corrupt conduct, the corruption issue need only be counted in relation to one of those kinds of corrupt conduct.

Section 15

15 Corruption issues referred by Integrity Commissioner to government agency for investigation

- (1) For corruption issues that the Integrity Commissioner referred to a government agency for investigation as described in subparagraph 201(a)(v) of the Act, the particulars are the following for each law enforcement agency in relation to which a corruption issue of that kind was referred:
 - (a) the number of corruption issues of that kind;
 - (b) a description of the kinds of corrupt conduct to which the corruption issues relate;
 - (c) the number of the corruption issues that relate to each kind of corrupt conduct;
 - (d) the number of the corruption issues for which a government agency conducted an investigation that is being, or was, managed by the Integrity Commissioner;
 - (e) the number of the corruption issues for which a government agency conducted an investigation that is being, or was, overseen by the Integrity Commissioner;
 - (f) the number of the corruption issues for which investigations by a government agency were completed.

Note: A government agency includes a law enforcement agency.

- (2) For the purposes of paragraph (1)(c), if a corruption issue relates to more than one kind of corrupt conduct, the corruption issue need only be counted in relation to one of those kinds of corrupt conduct.

16 ACLEI corruption issues investigated

For ACLEI corruption issues investigated as described in subparagraph 201(a)(vi) of the Act, the particulars are the following for each ACLEI corruption issue of that kind for which an investigation was completed by an ACLEI investigator:

- (a) a description of the kinds of corrupt conduct to which the ACLEI corruption issue relates;
- (b) a summary of the outcome of the investigation, including the following:
 - (i) any recommendations made by the ACLEI investigator;
 - (ii) any action taken as a result of the investigation;
 - (iii) if any disciplinary proceedings, criminal proceedings or civil penalty proceedings resulting from the investigation were commenced—the outcome of the proceedings.

17 Certificates issued under section 149 of the Act

For certificates issued under section 149 of the Act as described in subparagraph 201(a)(vii) of the Act, the particulars are the following:

- (a) the total number of certificates issued;
- (b) for each certificate issued—a description of the ground or grounds mentioned in subsection 149(2) of the Act on which the certificate was issued;

- (c) the number of certificates issued that, in the opinion of the Integrity Commissioner, prevented the effective investigation of a corruption issue.

Part 5—Giving information or reports

18 Requirement to give information or reports

Giving information or reports in specified circumstances

- (1) For the purposes of subsection 224(2) of the Act, information or reports that are required to be given under a provision of the Act prescribed in subsection (2) are also to be given to the persons prescribed in subsection (3) if:
- (a) the corruption issue to which the prescribed provision relates is a relevant corruption issue in relation to the Australian Capital Territory or an External Territory; and
 - (b) the Integrity Commissioner:
 - (i) is investigating the corruption issue to which the prescribed provision relates; or
 - (ii) is managing or overseeing the investigation by a law enforcement agency of the corruption issue to which the prescribed provision relates.

Prescribed provisions of the Act

- (2) The following provisions of the Act are prescribed:
- (a) section 33;
 - (b) subsection 35(4);
 - (c) subsection 36(6);
 - (d) subsection 39(4);
 - (e) subsection 40(6);
 - (f) subsection 52(1);
 - (g) paragraph 55(1)(a);
 - (h) subsection 65(1);
 - (i) paragraph 74(a), to the extent it relates to a corruption issue;
 - (j) subsection 144(6);
 - (k) subsection 145(6);
 - (l) subsection 147(2), to the extent it relates to a corruption issue.

Prescribed persons

- (3) The following persons are prescribed:
- (a) for information or reports relating to a relevant corruption issue in relation to the Australian Capital Territory—the Minister, within the meaning of the *Australian Capital Territory (Self-Government) Act 1988*, who is responsible for exercising the power of the Australian Capital Territory Executive in relation to police matters;
 - (b) for information or reports relating to a relevant corruption issue in relation to an External Territory—the Administrator of the External Territory.

Definitions

- (4) A corruption issue is a ***relevant corruption issue*** in relation to the Australian Capital Territory or an External Territory if:
- (a) the corruption issue relates to corrupt conduct of a person while the person was a staff member of the AFP whose duties included providing police services in relation to the Australian Capital Territory or an External Territory under section 8 of the *Australian Federal Police Act 1979* (***AFP Territory police services***); or
 - (b) the corruption issue relates to corrupt conduct of a person while the person is a staff member of the AFP whose duties include AFP Territory police services; or
 - (c) the corruption issue relates to corrupt conduct that:
 - (i) is the conduct of a person who, at the time the corruption issue is being investigated, is a staff member of the AFP whose duties include AFP Territory police services; and
 - (ii) in the opinion of the Integrity Commissioner, affects, or is likely to affect, the person's performance of the police service functions of the agency.

Part 6—Application and transitional matters

19 Application of section 8 (Allowances for witnesses)

Section 8 applies in relation to the attendance of a person as a witness at a hearing on or after the day that section commences, whether the hearing started before, on or after that day.

20 Application of Part 4 (Annual reports)

Part 4 applies in relation to an annual report that is required to be given on or after the day that Part commences.

21 Application of section 18 (Requirement to give information or reports)

Section 18 applies in relation to information or reports required to be given on or after the day that section commences.

Schedule 1—Form of identity card

Note: See section 9.

Law Enforcement Integrity Commissioner Act 2006

COMMONWEALTH OF AUSTRALIA

IDENTITY CARD FOR AUTHORISED OFFICER

The person whose name, signature and photograph appear on this card is an authorised officer for the purposes of Part 9 of the *Law Enforcement Integrity Commissioner Act 2006*.

[*photograph*]

Name:

[*signature of Integrity Commissioner
or delegate*]

[*signature of authorised officer*]

[*date*]

[*serial number of identity card*]

Schedule 2—Amendments and repeals

Part 1—Amendments

Law Enforcement Integrity Commissioner Regulations 2017

1 Section 6 (table item 1)

Repeal the item, substitute:

- | | | |
|---|-----------------|--|
| 1 | New South Wales | the Law Enforcement Conduct Commission constituted by the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW) |
|---|-----------------|--|

Part 2—Repeals

Law Enforcement Integrity Commissioner Regulations 2006

2 The whole of the Regulations

Repeal the Regulations.