

Australian Crime Commission Amendment Regulations 2003 (No. 1) 2003 No. 164

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 164

Issued by the Authority of the Minister for Justice and Customs

Subject: *Australian Crime Commission Act 2002*

Australian Crime Commission Amendment Regulations 2003 (No. 1)

Section 62 of the *Australian Crime Commission Act 2002* (the Act) provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that by the Act are required or permitted to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Australian Crime Commission Regulations 2002* (the Principal Regulations) set out the various matters necessary for carrying out or giving effect to the Act.

Provision of information to the Royal Commission into whether there has been Corrupt or Criminal conduct by any Western Australian police officer

Section 7 of the Act establishes the Australian Crime Commission (the ACC). Pursuant to section 7A of the Act, the functions of the ACC include the collection, correlation, analysis and dissemination of criminal information and intelligence.

The *Royal Commission into whether there has been Corrupt or Criminal conduct by any Western Australian police officer* (the Royal Commission) has indicated to the ACC that information in the ACC's possession would be of assistance to investigations currently being undertaken by the Royal Commission. The Royal Commission is required to report by 31 August 2003.

There is no provision in the Act which specifically authorises the ACC to give information to bodies such as Royal Commissions. However, subsection 59(7) of the Act authorises the Chief Executive Officer of the ACC to furnish information in the ACC's possession to an agency or body of the Commonwealth, a State or a Territory prescribed by regulation. The Regulations prescribe the Royal Commission as a body to which the ACC may provide information under the Act.

Such a regulation is consistent with provisions in other Commonwealth legislation, such as the *Telecommunications (Interception) Act 1979*, which authorise the ACC to furnish the Royal Commission with relevant telephone interception information obtained under that legislation.

Remuneration for examiners

Subsection 46B(1) of the Act provides for 'examiners' to be appointed by the Governor-General. Subsection 46C(1) of the Act provides for remuneration for examiners to be determined by the Remuneration Tribunal. Subsection 46C(1) of the Act further provides that if no determination of that remuneration is determined by the Tribunal, the remuneration to be paid to examiners is to be prescribed by regulation.

Subsection 46C(2) of the Act provides that examiners are to be paid the allowances that are prescribed by the Regulations.

Prior to December 2002, the remuneration payable to examiners consisted of a salary component and an annual displacement allowance of \$30,000. The salary component was determined in Remuneration Tribunal *Determination 2002/09: Remuneration and Allowances for Holders of Full-Time Public Office*, while the allowance component was prescribed by regulation 11 of the Principal Regulations.

The Remuneration Tribunal's *Determination 2002/23: Remuneration and Allowances for Holders of Full-Time Public Office* (the Determination), which came into effect on 19 December 2002, changed this arrangement. The Determination specifies the total value of salary and other allowances payable to office holders, and indicates that the remuneration provided for by the Determination is not to be supplemented by an employer.

The current remuneration for examiners appointed under the Act is specified in clauses 2.1 and 2.2.6 of the Determination, as amended by *Determination 2003/02: Remuneration and Allowances for Holders of Public Offices*. The remuneration provided for by the Determination is intended to be inclusive of allowances such as the regulation 11 displacement allowance.

The Regulations repeal regulation 11 of the Principal Regulations so as to avoid confusion about examiners' remuneration entitlements.

The Act specified no conditions that need to be met before the power to make the proposed Regulations may be exercised.

The Regulations commence on gazettal.