

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 291

Issued by the authority of the Minister for Justice and Customs

Subject: *Law Enforcement Integrity Commissioner Act 2006*

Law Enforcement Integrity Commissioner Regulations 2006

The *Law Enforcement Integrity Commissioner Act 2006* (the Act) establishes the office of the Integrity Commissioner to head the Australian Commission for Law Enforcement Integrity (ACLEI), an independent body with powers to prevent, detect and investigate corruption within Australian Government law enforcement agencies, including the Australian Federal Police (AFP), the Australian Crime Commission (ACC) and any other Commonwealth agency that has a law enforcement function and is prescribed by regulations under the Act.

Section 224 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act received the Royal Assent on 30 June 2006. Subsection 2(1) of the Act provides that the operative provisions of the Act (sections 3 to 224) will commence on a single day to be fixed by Proclamation, or if the provisions do not commence within the period of six months beginning on the day on which the Act received Royal Assent, the provisions will commence on the first day after the end of that period. It is intended that these provisions will commence on 30 December 2006.

Subsections 4(1) and 4A(2) of the *Acts Interpretation Act 1901*, read together, provide that regulations may be made between the passing and commencement of an Act, as long as such regulations do not commence before the Act upon which they rely for their authority.

The purpose of the proposed Regulations is to prescribe the matters necessary for the effective operation of the Act.

The proposed Regulations would specify:

- the integrity agencies for each of the States and Territories with which the Integrity Commissioner may exchange information relating to an investigation, and which may conduct a joint investigation with ACLEI;
- the travelling and other expenses witnesses will be entitled to be paid for attending a hearing before the Integrity Commissioner;
- the form of the identity card to be issued to authorised officers;
- particulars of corruption issues which must be included in the Integrity Commissioner's annual report; and
- the persons to whom information and reports are required to be given.

Details of the proposed Regulations are set out in the Attachment.

The Act does not specify any conditions that need to be met before the power to make the proposed Regulations may be exercised.

The proposed Regulations would commence on the commencement of sections 3 to 224 of the Act, which is expected to be 30 December 2006.

The proposed Regulations would be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Minute recommends that Regulations be made in the form proposed.

Consultation was unnecessary for this legislative instrument as this instrument is of a machinery nature and merely provides for the effective operation of the Act from commencement. It has no direct, or indirect effect on business.

Authority: Section 224 of the
Law Enforcement Integrity Commissioner Act 2006

Details of the proposed *Law Enforcement Integrity Commissioner Regulations 2006*

Regulation 1 – Name of Regulations

This regulation provides that the title of the Regulations is the *Law Enforcement Integrity Commissioner Regulations 2006*.

Regulation 2 – Commencement

This regulation provides for the Regulations to commence on the commencement of sections 3 to 224 of the *Law Enforcement Integrity Commissioner Act 2006* (the Act).

Regulation 3 – Definition

This regulation provides that all references in these Regulations to ‘the Act’, are references to the *Law Enforcement Integrity Commissioner Act 2006*.

Regulation 5 – Integrity Agency

This regulation prescribes the integrity agencies of each of the States and the Northern Territory pursuant to subsection 5(1) of the Act. The Integrity Commissioner will be able to exchange information relating to an investigation and may conduct a joint investigation with these prescribed agencies.

Regulation 11 – Allowances for travelling and other expenses to be paid to witnesses

This regulation provides that the allowances payable to a witness summoned to appear before the Integrity Commissioner pursuant to subsection 83(6) of the Act are set out in Schedule 1.

Regulation 12 – Identity cards – prescribed form

This regulation provides that the form of the identity card issued by the Integrity Commissioner to all authorised officers pursuant to paragraph 141(2)(a) of the Act is set out as Form 1 in Schedule 2 to the Regulations.

Regulation 17 – Annual report – prescribed particulars of corruption issues notified

This regulation provides the particulars that are to be noted in the annual report in relation to the corruption issues of which the Integrity Commissioner is notified, pursuant to paragraph 201(2)(a) of the Act.

Regulation 18 – Annual report – prescribed particulars of corruption issues referred

This regulation provides the particulars that are to be noted in the annual report in relation to the corruption issues referred to the Integrity Commissioner, pursuant to paragraph 201(2)(a) of the Act.

Regulation 19 – Annual report – prescribed particulars of corruption issues dealt with by the Integrity Commissioner

This regulation provides the particulars that are to be noted in the annual report in relation to the corruption issues dealt with by the Integrity Commissioner, pursuant to paragraph 201(2)(a) of the Act.

Regulation 20 – Annual report – prescribed particulars of corruption issues investigated by the Integrity Commissioner

This regulation provides the particulars that are to be noted in the annual report in relation to the corruption issues investigated by the Integrity Commissioner, pursuant to paragraph 201(2)(a) of the Act.

Regulation 21 – Annual report – prescribed particulars of corruption issues referred to government agency for investigation

This regulation provides the particulars that are to be noted in the annual report in relation to the corruption issues referred to a government agency, pursuant to paragraph 201(2)(a) of the Act.

Regulation 22 – Annual report – prescribed particulars of ACLEI corruption issues investigated

This regulation provides the particulars that are to be noted in the annual report in relation to corruption issues involving an ACLEI staff member, pursuant to paragraph 201(2)(a) of the Act.

Regulation 23 – Annual report – prescribed particulars of certificates issued under section 149 of the Act

This regulation provides the particulars that are to be noted in the annual report in relation to the certificates issued under section 149 of the Act (relating to the release of certain information), pursuant to paragraph 201(2)(a) of the Act.

Regulation 24 – Persons to whom information and reports are required to be given

This regulation prescribes the particular persons to which information and reports are required to be given under specified sections of the Act, pursuant to subsection 224(2) of the Act. Essentially, this regulation recognises that the AFP provide community policing services to the Australian Capital Territory and External Territories and ensures that information and reports are to be given to Territory authorities responsible for policing when an ACLEI investigation or inquiry is relevant to the provision of policing services to that Territory by the Australian Federal Police.

Schedule 1 – Allowances for travelling and other expenses to be paid to witnesses

Regulation 11 provides that witnesses may be paid allowances for travel and other expenses for attending a hearing before the Integrity Commissioner. This schedule provides the amount payable to a person summoned to appear as a witness.

Schedule 2 – Forms

Form [1]

Regulation 12 provides that the form of the identity card issued by the Integrity Commissioner to all authorised officers pursuant to paragraph 141(2)(a) of the Act is set out as Form 1 in Schedule 2 to the Regulations. This schedule prescribes the format and particulars to be included on the identity cards to be issued by the Integrity Commissioner to all authorised officers. The form provides that details such as the name, signature and photograph of the authorised officer, in addition to the signature of the Integrity Commissioner must be included on the identity card.