

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Justice

Law Enforcement Integrity Commissioner Act 2006

Law Enforcement Integrity Commissioner Regulations 2017

The *Law Enforcement Integrity Commissioner Act 2006* (the Act) establishes the office of the Integrity Commissioner, whose functions include preventing and detecting corrupt conduct, and investigating corruption issues, in law enforcement agencies within his or her jurisdiction. The Act also establishes the Australian Commission for Law Enforcement Integrity (ACLEI) to assist the Integrity Commissioner in the performance of his or her functions. The Integrity Commissioner is the accountable authority and agency head of ACLEI.

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

Regulations were made under the Act in 2006 as the *Law Enforcement Integrity Commissioner Regulations 2006*. Those regulations will sunset on 1 April 2017.

The *Law Enforcement Integrity Commissioner Regulations 2017* (the Regulations) will remake the *Law Enforcement Integrity Commissioner Regulations 2006* in substantially the same form, with modifications to ensure the regulations remain fit for purpose.

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

The Regulations will specify:

- the integrity agencies for each of the States and Territories with which the Integrity Commissioner must exchange information relating to ACLEI's investigation of a secondee from a relevant government agency;
- the staff members within the Agriculture Department subject to the Integrity Commissioner's jurisdiction;
- 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 additional persons to whom information and reports are required to be given.

Relevant agencies (ACLEI and the Department of Agriculture and Water Resources) were consulted on the development of these Regulations. These Regulations are not likely to impact on business or restrict competition.

Details of the Regulation are set out in the [Attachment](#).

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

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Sections 1 to 21 of the Regulations; Schedule 1 and Part 2 of Schedule 2 to the Regulations commence on the day after the instrument is registered on the Federal Register of Legislative Instruments.

Part 1 of Schedule 2 to the Regulations commences on the later day of either the day after the instrument is registered on the Federal Register of Legislative Instruments, or the day section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW) commences (but will not commence at all if section 51 of that Act does not commence). Section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW) would prescribe the Law Enforcement Conduct Commission as the New South Wales (NSW) integrity agency for the purposes of subsection 5(1) of the Act, in place of the Police Integrity Commission (PIC) constituted by the *Police Integrity Commission Act 1996* (NSW).

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

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Law Enforcement Integrity Commissioner Regulations 2017

This legislative instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The *Law Enforcement Integrity Commissioner Regulations 2017* (the Regulations) remake the *Law Enforcement Integrity Commissioner Regulations 2006* in their current form, with minor technical amendments. The Regulations preserve existing arrangements in the *Law Enforcement Integrity Commissioner Regulations 2006* but have been remade in accordance with current drafting practices.

The *Law Enforcement Integrity Commissioner Act 2006* (the Act) contains mechanisms to enhance cooperation between the Australian Commission for Law Enforcement Integrity (ACLEI) and state and territory agencies with similar functions. Such agencies are referred to as ‘integrity agencies’, defined in subsection 5(1) of the Act. The *Law Enforcement Integrity Commissioner Regulations 2006* contain a list of prescribed agencies for the purposes of this definition.

The Regulations remake the existing list of prescribed agencies contained in the *Law Enforcement Integrity Commissioner Regulations 2006*. Subject to commencement of section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW), the Regulations will update the existing list by prescribing the Law Enforcement Conduct Commission as the relevant ‘integrity agency’ for NSW for the purposes of subsection 5(1) of the Act.

The Regulations continue to require the Integrity Commissioner to provide information and reports 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 (AFP) (as is the case, for example, in the Australian Capital Territory (ACT)).

The Regulations also retain existing arrangements for prescribing staff members of the Department of Agriculture and Water Resources (the Agriculture Department) for the purposes of section 10 of the Act. Prescribing Agriculture Department staff members in the Regulations has the effect of bringing those staff members within the Integrity Commissioner’s jurisdiction.

Human rights implications

The Regulations engage the right to freedom from unlawful or arbitrary interference with a person’s right to privacy under Article 17 of the International Covenant on Civil and Political Rights (ICCPR).

The right to privacy

Information disclosure – prescribed bodies/persons

The Regulations engage the right to privacy by prescribing state and territory integrity agencies with which the Integrity Commissioner must share information.

The Regulations also require the Integrity Commissioner to provide information or reports to relevant Ministers on corruption issues in relation to Australian Federal Police (AFP) exercising policing functions in the ACT or an External Territory (where the corruption issue relates to the conduct of a person who is a staff member of the AFP).

The types of information that may be disclosed under the above-mentioned regimes could include personal information.

Prescribing staff members of the Agriculture Department

The Regulations engage the right to privacy because the Act provides that employees of agencies within the Integrity Commissioner's jurisdiction, or other persons with information that is relevant to corruption within those agencies, can be required to provide information to ACLEI or to answer questions. A failure to provide the information or answer a question is an offence.

Prescribing certain employees of Agriculture within the Integrity Commissioner's jurisdiction therefore potentially impacts on the right to privacy of an expanded class of people.

Assessment of compatibility with human rights

Information disclosure – prescribed bodies/persons

The prescribed list of bodies and persons with which the Integrity Commissioner must share information replicates the list of bodies and persons currently prescribed in the *Law Enforcement Integrity Commissioner Regulations 2006* with amendments to reflect name changes.

Commonwealth law enforcement agencies within ACLEI's jurisdiction commonly include staff members seconded from State and Territory agencies. These agencies have a continuing interest in assuring the integrity of staff members within their jurisdictions. Accordingly, it is important, as a minimum, that ACLEI continue to be able to share information with prescribed integrity agencies so that those agencies may effectively carry out their prescribed functions of detecting, investigating and preventing corruption in prescribed law enforcement agencies.

It is also important that relevant Ministers be made aware of corruption issues associated with AFP members exercising police functions within their jurisdictions to promote community confidence in the exercise of law enforcement functions and powers.

In these circumstances, the Regulations create permissible limitations on the right to privacy.

Prescribing staff members of the Agriculture Department

The Integrity Commissioner's ability to require an individual to provide information or answer questions is limited to situations where it will be relevant to an investigation of a corruption issue or the conduct of a public inquiry into corruption. The Act also specifies how information that individuals provide to ACLEI is able to be used and disclosed. Disclosure is generally only permitted for the purposes of investigating a corruption issue or other purposes connected with the exercise of the Integrity Commissioner's functions.

A person's privacy is also protected by the provision of a 'use immunity' in relation to self-incriminatory evidence given at a hearing. Self-incriminatory evidence is not admissible in evidence against the person in criminal proceedings. The immunity protection does not apply to a small number of offences, including providing false and misleading information or obstructing a Commonwealth official.

In these circumstances, although the right to privacy is limited by this measure, it is appropriate and reasonable in the circumstances and includes protections to limit information from inappropriate use or disclosure.

Conclusion

The measures in the Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in the definition of human rights in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. To the extent that these measures may limit those rights and freedoms, such limitations are reasonable, necessary and proportionate.

Details of the *Law Enforcement Integrity Commissioner Regulations 2017*

Part 1 - Preliminary

Section 1 – Name

This clause provides that the title of the Regulations is the *Law Enforcement Integrity Commissioner Regulations 2017* (the Regulations).

Section 2 – Commencement

This clause inserts a table which specifies the commencement date of each of the provisions and Schedules to the Regulations.

Item 1 of the table provides that clauses 1 to 21 of the Regulations and Schedule 1 to the Regulations commence on the day after the instrument is registered on the Federal Register of Legislative Instruments.

Item 2 of the table provides that Part 1 of Schedule 2 to the Regulations commences on the later day of either the day after the instrument is registered on the Federal Register of Legislative Instruments, or the day section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW) commences (but does not commence at all unless section 51 commences). Subject to commencement of section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW), Part 1 of Schedule 2 would prescribe the Law Enforcement Conduct Commission as the New South Wales (NSW) integrity agency for the purposes of subsection 5(1) of the Act, in place of the Police Integrity Commission (PIC) constituted by the *Police Integrity Commission Act 1996* (NSW).

Item 3 of the table provides that Part 2 of Schedule 2 to the Regulations commences on the day after the instrument is registered.

Section 3 – Authority

This clause provides that the Act under which this instrument is made is the *Law Enforcement Integrity Commissioner Act 2006* (the Act).

Section 4 – Schedules

This clause enables an instrument specified in a Schedule to the Regulations to be taken to be repealed or amended as set out in the Schedule, and specifies that any other item in a Schedule has effect according to its terms.

For example, on the day after this instrument is registered, Part 2 of Schedule 2 to the Regulations will repeal the *Law Enforcement Integrity Commissioner Regulations 2006*.

Regulation 5 – Definitions

The note to this clause provides a non-exhaustive list of expressions, defined in subsection 5(1) of the Act, and used for the purposes of the Regulations. The purpose of the note is to facilitate understanding of the terms used throughout the Regulations.

The clause also inserts definition for the terms ‘ACLEI investigator’, ‘Act’, ‘Integrated Cargo System’ and ‘relevant corruption issue’ into the Regulations.

ACLEI investigator

The term ‘ACLEI investigator’ is used for the purposes of regulation 16, and is defined as meaning a special investigator (defined in subsection 5(1) of the Act) and the Integrity Commissioner.

Act

The term ‘Act’ is defined as meaning the *Law Enforcement Integrity Commissioner Act 2006*.

Integrated Cargo System

The term ‘Integrated Cargo System’ is defined as having the same meaning as that system administered by the Department of Immigration and Border Protection.

Relevant corruption issue

A definition of the term ‘relevant corruption issue’ is inserted for the purposes of regulation 18 (see below).

Part 2 - Provisions relating to definitions in the Act

Regulation 6 - Integrity Agencies for States and Territories

This clause prescribes the integrity agencies of each of the states and the Northern Territory for the purposes of the definition of ‘integrity agency’ in subsection 5(1) of the Act.

The Act contains mechanisms to enhance cooperation between ACLEI and state and territory agencies with similar functions. Such agencies are referred to as ‘integrity agencies’ in the Act, defined in subsection 5(1) as agencies established for purposes that include the purpose of investigating corruption in the police force of the State or Territory, and that are prescribed (in the Regulations).

The *Law Enforcement Integrity Commissioner Regulations 2006* contains a list of prescribed integrity agencies for the purposes of that definition. This clause remakes the existing list of prescribed agencies contained in the *Law Enforcement Integrity Commissioner Regulations 2006*.

The effect of this clause is that the Integrity Commissioner will be able to continue to exchange information relating to an investigation with the agencies prescribed in the clause.

In the event that section 51 of the *Law Enforcement Conduct Commission Act 2016* (NSW) (LECC Act) commences, item 1 of the table in regulation 6 would be repealed and replaced with the Law Enforcement Conduct Commission (LECC) constituted by the LECC Act (by virtue of Part 1 of Schedule 2 of the Regulations). Upon commencement of section 51 of the LECC Act, the LECC would exercise the functions currently undertaken by the PIC, the NSW Ombudsman and the Inspector of the NSW Crime Commission. The PIC would be abolished and therefore, reference to it in the Regulations would become obsolete.

Regulation 7 – Staff members of the Agriculture Department

This clause prescribes certain staff members of the Department of Agriculture and Water Resources (Agriculture Department) for the purposes of subsection 10(2E) of the Act.

Subsection 10(2E) of the Act provides that the Secretary of the Agriculture Department, and staff members prescribed by regulation for the purposes of that subsection, are within the Integrity Commissioner's jurisdiction.

This clause retains the list of Agriculture Department staff prescribed in the *Law Enforcement Integrity Commissioner Regulations 2006*. Those staff members are prescribed because they support or undertake frontline law enforcement and regulatory functions. The undertaking of these responsibilities means that those staff members pose an attractive target for criminal infiltration and compromise by organised crime.

The prescription of certain staff members of the Agriculture Department is limited to those staff who work within cargo operations business activities of the department – including desk-based staff with access to the Integrated Cargo System and those who undertake inspections of cargo at ports and other sites for the purpose of releasing cargo into Australia. The inclusion of these staff is on the basis that these officers either work within a high risk environment – the waterfront and cargo environment – or they make decisions or have access to information about proposed importation.

Regulation 7 is drafted with reference to the functions performed by staff, rather than the work areas, to ensure the Regulations remain fit for purpose should the Agriculture Department undergo organisational change. Based on the Agriculture Department's current organisational structure, those staff within scope of this clause include:

- persons holding, or acting in, the position of Regional Manager of the Agriculture Department
- members of staff of the Agriculture Department whose duties include undertaking assessment, clearance or control of vessels or cargo imported into Australia, and
- any staff member of the Agriculture Department who has access to the Integrated Cargo System.

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

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

Subregulation 8(1) – allowances

Paragraph (1) of this clause inserts a table that prescribes the amounts payable to a witness summoned by the Integrity Commissioner to appear at a hearing, pursuant to subsection 83(6) of the Act.

Under the Act, the Integrity Commissioner has a range of information gathering powers that he or she may exercise in investigating corruption issues within prescribed law enforcement agencies. Under section 83 of the Act, the Integrity Commissioner may summon a person to attend a hearing to give evidence or produce a document or thing relevant to an investigation. Subsection 83(6) of the Act allows witnesses to be entitled to reimbursement for travelling and other expenses he or she incurred to comply with a summons to appear at a hearing.

Item 1 of subregulation 8(1)

Item 1 of the table provides that a person summoned to appear as a witness at a hearing because of the person's professional, scientific or other special skill or knowledge is entitled to be reimbursed the daily rate specified in the *Royal Commissions Regulations 2001* (RCR) as in force from time to time.

Currently, item 1 of the table in subregulation 7(3) of the RCR provides a specified daily rate (currently \$1, 174.90 per day) for reimbursement of a witness with special knowledge or skill.

The *Law Enforcement Integrity Commissioner Regulations 2006* provide the *Federal Court Rules 2011* as the prescribed scale for the reimbursement of expenses to witnesses appearing at an ACLEI hearing. Those regulations have since been amended and the RCR are now a more suitable basis for the scale of witness expenses.

Item 2 of subregulation 8(1)

Item 2 of the table provides for payment of other witnesses – that is, witnesses called to appear at a hearing for a reason other than the person's professional, scientific or other special skill or knowledge.

Item 2(a) enables a witness who is remunerated in his or her occupation by wages, salary or fees to be reimbursed an amount equal to the amount the person actually lost due to the person's attendance as a witness. No cap on this rate is specified.

Item 2(b) enables a witness who is not remunerated by wages, salary or fees to be reimbursed the daily rate stipulated by reference to subregulation 7(3) of the RCR, as in force from time to time (currently \$123.90 per day).

For item 2, witnesses do not have a choice between paragraphs (a) and (b). The amount prescribed for the purposes of paragraph (b) is only available for witnesses who do not earn a wage, salary or fee.

Item 3 of subregulation 8(1)

Item 3 of the table provides for additional amounts payable to a witness summoned to appear at a hearing. In addition to the amounts mentioned in items 1 and 2 of the table, item 3 provides that a witness may also be reimbursed a reasonable amount for the cost of transport to the location of the hearing and for meals and accommodation expenses the witnesses incurred to appear at the hearing.

Subregulation 8(2) – Decisions made under item 3 of the table in subsection 1

Paragraph 8(2)(a) specifies that for the purposes of item 3 of the table in subregulation 8(1), the person authorised to determine the reasonable amount for reimbursement of transport, meals and accommodation is a staff member of ACLEI who is an SES employee or acting SES employee (the decision-maker).

Paragraph 8(2)(b) provides a list of the criteria the decision-maker must take into account when making a decision about the reimbursement amount under item 3 of the table in subregulation 8(1).

Paragraph 8(2)(b) clarifies that in making a decision about what a ‘reasonable’ reimbursement amount is, the decision-maker must consider the distance the affected witness travelled to specifically appear at the hearing; whether the affected witness was required to be absent overnight from his or her usual place of residence to specifically appear at the hearing; the amount already paid to the affected witness under items 1 and 2 of the table in subregulation 8(1); and any other matter that the decision-maker considers relevant in making that decision.

Providing a list of objective criteria upon which the decision-maker is required to make a decision will ensure that the decision-making process operates consistently, provides guidance to witnesses about their entitlements, and guards against potential misuse of the reimbursement regime.

Subregulation 8(3) clarifies that after making the decision about the reimbursement amount under item 3 of the table in subregulation 8(1), defined as the ‘initial decision’, the decision-maker must notify the affected witness in writing of the decision; provide the reasons behind that decision; and the mechanisms under which the affected witness may have that decision reviewed.

Internal review of initial decision

Subregulation 8(4) provides that an affected witness may, in writing, request that the Integrity Commissioner review the initial decision.

Subregulation 8(5) provides details about how an affected witness must notify the Integrity Commissioner of his or her request to have the initial decision reviewed. The clause provides that an affected witness must make a request within 14 days of being notified of the initial decision and must clarify the reasons for making the request. Paragraph 8(5)(a) enables the Integrity Commissioner to extend the period within which an affected witness may apply to have the initial decision reviewed. The decision to extend that period rests with the Integrity Commissioner.

Subregulation 8(6) provides that on receiving an affected witness’s request for review of the initial decision, the Integrity Commissioner must review that decision personally, and as soon as practicable.

Subregulation 8(7) outlines the options available to the Integrity Commissioner in reviewing the initial decision. The clause provides that the Integrity Commissioner may choose to affirm the initial decision, vary the decision or revoke the decision. If the Integrity Commissioner revokes the decision, paragraph 8(7)(b) clarifies that the Integrity Commissioner may make another decision he or she considers appropriate.

Subregulation 8(8) provides that, after reviewing the initial decision, the Integrity Commissioner must notify the affected witness in writing about the outcome of the review within 30 days; and must provide reasons for making that decision.

While the decision to reimburse witnesses for the expenses mentioned in item 3 of the table in subregulation 8(1) incurred to attend an ACLEI hearing is administrative in nature, it is appropriate to deal with review of that decision internally. External merits review of that decision is not justified in the circumstances. The cost of providing merits review for the decision is disproportionate to the significance of the decision under review. For example, the allowance payable for witness travel, meals and accommodation is likely to be less than the application fee for seeking Administrative Appeals Tribunal review (currently \$884).

Regulation 9 – form of identity card for authorised officers

This clause 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 in Schedule 1 to the Regulations.

Part 4—Annual reports

Regulation 10 – Prescribed particulars for annual report

Under the *Public Governance, Performance and Accountability Act 2013*, the Integrity Commissioner must prepare an annual report and provide it to the Minister. Under section 201 of the Act, the annual report must include prescribed particulars.

This clause provides that Part 4 of the Regulations prescribes the particulars that are to be included in an annual report under subsection 201(a) of the Act.

The prescribed particulars remain largely consistent with the particulars provided in the *Law Enforcement Integrity Commissioner Regulations 2006*. Some modifications to the provisions in Part 4 have been made to ensure consistency of the information reported, and to protect operational details of ongoing investigations, while ensuring the independent monitoring and reporting of corruption issues investigated.

Regulation 11 – Corruption issues notified to Integrity Commissioner

This clause provides the particulars, for the purposes of subparagraph 201(a)(i) of the Act, required to be reported on in the annual report. The prescribed particulars relate to the corruption issues notified to the Integrity Commissioner by the head of a law enforcement agency within the Integrity Commissioner's jurisdiction.

Subregulation 11(2) clarifies that for the purposes of paragraph 11(1)(c), if a corruption issue notified to the Integrity Commissioner by the head of a law enforcement agency deals

with more than one kind of corrupt conduct, only one kind of conduct need be recorded in the annual report.

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

This clause provides the particulars, for the purposes of subparagraph 201(a)(ii) of the Act, required to be reported on in the annual report. The prescribed particulars relate to corruption issues by allegations or information referred to the Integrity Commissioner by the Minister or by other people.

Subregulation 12(2) clarifies that for the purposes of paragraph 12(1)(c), if a corruption issue deals with more than one kind of corrupt conduct, only one kind need be recorded in the annual report.

Regulation 13 – Corruption issues dealt with by Integrity Commissioner on own initiative

This clause provides the particulars, for the purposes of subparagraph 201(a)(iii) of the Act, required to be reported on in the annual report. The prescribed particulars relate to corruption issues dealt with by the Integrity Commissioner on his or her own initiative.

Subregulation 13(2) clarifies that for the purposes of paragraph 13(1)(c), if a corruption issue deals with more than one kind of corrupt conduct, only one kind need be recorded in the annual report.

Regulation 14 – Corruption issues investigated by Integrity Commissioner

This clause provides the particulars, for the purposes of subparagraph 201(a)(iv) of the Act, required to be reported on in the annual report. The prescribed particulars relate to corruption issues investigated by the Integrity Commissioner.

Subregulation 14(2) clarifies that for the purposes of paragraph 14(1)(c), if a corruption issue deals with more than one kind of corrupt conduct, only one kind need be recorded in the annual report.

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

This clause provides the particulars, for the purposes of subparagraph 201(a)(v) of the Act, required to be reported on in the annual report. The prescribed particulars relate to corruption issues that the Integrity Commissioner referred to a government agency for investigation.

Subregulation 15(2) clarifies that for the purposes of paragraph 15(1)(c), if a corruption issue deals with more than one kind of corrupt conduct, only one kind need be recorded in the annual report.

Regulation 16 – ACLEI corruption issues investigated

This clause provides the particulars, for the purposes of subparagraph 201(a)(vi) of the Act, required to be reported on in the annual report. The prescribed particulars relate to concluded investigations of ACLEI corruption issues.

Regulation 17 – Certificates issued under section 149 of the Act

This clause provides the particulars, for the purposes of subparagraph 201(a)(vii) of the Act, required to be reported on in the annual report. The prescribed particulars relate to certificates issued by the Attorney-General under section 149 of the Act.

Part 5—Giving information or reports

Regulation 18 – Requirement to give information or reports

This clause 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.

This clause recognises that the AFP provides community policing services to the ACT and certain External Territories. It ensures that information and reports are able to continue 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 AFP.

Prescribing the Minister in the ACT and relevant Administrator of an External Territory as persons to whom the Integrity Commissioner must provide information or reports to on relevant corruption issues is necessary to ensure appropriate oversight mechanisms. The Integrity Commissioner has that same obligation in relation to the Commonwealth Minister when an ACLEI investigation relates to corruption issues within the Commonwealth jurisdiction.

A ‘relevant corruption issue’ is defined in this clause to mean, in relation the Australian Capital Territory (ACT) or an External Territory (under the *Australian Federal Police Act 1979*):

- a. a corruption issue that relates to the 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 ACT or an External Territory;
- b. a corruption issue that 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. a corruption issue that 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

Regulation 19 – Application of section 8 (Allowances for witnesses)

This clause provides that regulation 8, which prescribes the amounts payable to a witness summoned by the Integrity Commissioner to appear at a hearing, applies in relation to the attendance of a person as a witness at a hearing on or after the day that regulation 8 commences (i.e. the day after this instrument is registered). The clause clarifies that regulation 8 of these Regulations applies regardless of whether the hearing started before, on or after the day that provision commences.

Regulation 20 - Application of Part 4 (Annual reports)

This clause provides that Part 4 of these Regulations, relating to the prescribed particulars required for the annual report the Integrity Commissioner is required to provide to the Minister, applies in relation to an annual report that is required to be given on or after the day that Part 4 commences (i.e. the day after this instrument is registered).

Regulation 21 - Application of Section 18 (Requirement to give information or reports)

This clause provides that regulation 18 applies in relation to information or reports required to be given on or after the day that provision commences (i.e. the day after this instrument is registered).

Schedule 1 - Form of identity card

This Schedule provides the form of the identity card to be issued by the Integrity Commissioner to all authorised officers under Part 9 of the Act.

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.

Schedule 2 - Amendments and repeals

Part 1 - Amendments

Item 1 - Section 6 (table item 1)

This clause repeals item 1 of the table in regulation 6, which prescribes the relevant integrity agency in New South Wales as the Police Integrity Commission (PIC) constituted by the *Police Integrity Commission Act 1996* (NSW).

The item replaces that reference with the Law Enforcement Conduct Commission constituted by the *Law Enforcement Conduct Commission Act 2016* (NSW).

Part 2 - Repeals

Item 2 - The whole of the Regulations

This item repeals the whole of the existing *Law Enforcement Integrity Commissioner Regulations 2006*. Those regulations will be replaced with this instrument.