



National Anti-Corruption Commission (Consequential and Transitional Provisions) Rules 2023

I, Mark Dreyfus KC, Attorney-General, make the following rules.

Dated 19 June 2023

Mark Dreyfus KC
Attorney-General

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Part 1—Preliminary

1 Name

This instrument is the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Rules 2023*.

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. The whole of this instrument	1 July 2023.	1 July 2023

Note: This table relates only to the provisions of this instrument as originally made.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 *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*.

4 Definitions

- (1) In this instrument:

NACC corruption issue transition notice has the same meaning as in the Transitional Schedule.

new Act has the same meaning as in the Transitional Schedule.

old Act has the same meaning as in the Transitional Schedule.

Transitional Schedule means Schedule 2 to the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*.

transition determination has the same meaning as in the Transitional Schedule.

transition time has the same meaning as in the Transitional Schedule.

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- (2) Expressions used in this instrument that are defined for the purposes of the new Act, and are used in relation to that Act, have the same meaning as in that Act.
- (3) Expressions used in this instrument that are defined for the purposes of the old Act, and are used in relation to that Act, have the same meaning as in that Act.

5 Functions and powers under old Act

- (1) For the purposes of the operation of the old Act after the transition time, as provided for by this instrument:
 - (a) the National Anti-Corruption Commissioner may exercise the powers, and perform the functions and duties, of the Integrity Commissioner; and
 - (b) the Inspector may exercise the powers, and perform the functions and duties, of a special investigator; and
 - (c) the old Act applies with such further modifications as are necessary for matters under the old Act to be managed by the National Anti-Corruption Commissioner or the Inspector, as the case requires.
- (2) For the purposes of the operation of the old Act after the transition time, as provided for by the Transitional Schedule and this instrument:
 - (a) an authorised officer within the meaning of the new Act may exercise the powers, and perform the functions and duties, of an authorised officer within the meaning of the old Act; and
 - (b) a reference in section 141 of the old Act to an identity card is taken to include a reference to an identity card issued under section 268 of the new Act.

6 Regulations under old Act

For the purposes of the operation of the old Act after the transition time, as provided for by the Transitional Schedule and this instrument, the *Law Enforcement Integrity Commissioner Regulations 2017* as in force immediately before the transition time (except section 8) continue to apply as if they had not been repealed.

Part 2—Existing investigations and inquiries

7 Notice of making of transition determinations

If the National Anti-Corruption Commissioner makes a transition determination, the Commissioner may advise any of the following of the making of the determination:

- (a) the Minister;
- (b) for a determination in relation to an existing investigation of a corruption issue—the person who referred the allegation, or information, that raised the corruption issue (or a representative nominated by the person);
- (c) for a determination in relation to an existing investigation of a corruption issue—a person to whom the corruption issue relates.

8 Passing on information relevant to agency investigation

Section 70 of the old Act continues to apply in relation to:

- (a) an investigation of a corruption issue to which item 4 of the Transitional Schedule applies; and
- (b) an investigation of a corruption issue by the AFP, on a referral by the Integrity Commissioner under subparagraph 26(1)(c)(iii) of the old Act, that had been commenced but had not yet been completed before the transition time.

9 Actions after completion of investigations of corruption issues

Investigations continued after transition time

- (1) If an existing investigation is continued under subitem 2(2) of the Transitional Schedule, the following provisions of the old Act apply to reporting on the investigation as if the old Act had not been repealed:
 - (a) section 51;
 - (b) Subdivision B of Division 2 of Part 6.
- (2) If:
 - (a) the Integrity Commissioner referred a corruption issue to the AFP for investigation under subparagraph 26(1)(c)(iii) of the old Act; and
 - (b) the investigation had been commenced but had not yet been completed before the transition time;

Division 3 of Part 7 of the old Act continues to apply in relation to the investigation.

Investigations completed before transition time—investigation by Integrity Commissioner

- (3) If item 38 of the Transitional Schedule applies in relation to an investigation of a corruption issue that related to a law enforcement agency, sections 51 and 55 of the old Act continue to apply in relation to the investigation.

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- (4) If, before the transition time, the Integrity Commissioner completed an investigation of a corruption issue that related to a law enforcement agency, sections 56 and 57 of the old Act continue to apply in relation to the investigation.
- (5) If, before the transition time, the Integrity Commissioner:
 - (a) completed an investigation of a corruption issue; and
 - (b) had not yet exercised the power in section 58 or 59 of the old Act to advise a person of the outcome of the investigation;those sections continue to apply in relation to the investigation.

Investigations completed before transition time—investigation by other agencies

- (6) If, before the transition time:
 - (a) a Commonwealth government agency completed an investigation of a corruption issue; and
 - (b) the head of the agency had not yet caused a report on the investigation to be prepared under subsection 66(1) of the old Act;then:
 - (c) section 66 of the old Act continues to apply in relation to the investigation; and
 - (d) a reference in subsection 66(3) or (4) of the old Act to the Integrity Commissioner is taken to be a reference to the National Anti-Corruption Commissioner.
- (7) If, before the transition time, a Commonwealth government agency completed an investigation of a corruption issue, section 67 of the old Act continues to apply in relation to the investigation.
- (8) If, before the transition time:
 - (a) a law enforcement agency or Commonwealth government agency completed an investigation of a corruption issue; and
 - (b) the head of the agency had not yet exercised the power in section 68 or 69 of the old Act to advise a person of the outcome of the investigation;those sections continue to apply in relation to the investigation.

Part 3—Facilitating investigations and inquiries

10 Notices to give information or produce documents or things

Notices to which item 9 of Transitional Schedule applies

- (1) If subitem 9(3) of the Transitional Schedule applies to a notice because of a transition determination, the National Anti-Corruption Commissioner must, as soon as practicable after making the transition determination:
 - (a) give the recipient of the notice a copy of the transition determination; and
 - (b) advise the recipient of the notice, in writing, of:
 - (i) the effect of subitem 9(3) of the Transitional Schedule; and
 - (ii) the person's rights and obligations under the new Act as a consequence.

Non-disclosure notations in notices to which item 9 of Transitional Schedule does not apply

- (2) If:
 - (a) a notation was included, under subsection 77A(2) of the old Act, in a notice served on a person under section 75 of that Act; and
 - (b) item 9 of the Transitional Schedule does not apply to the notice; and
 - (c) immediately before the transition time, the notation had not been cancelled by subsection 77A(7) of the old Act;the old Act continues to apply in relation to the notation.

11 Summonses

If subitem 11(3) of the Transitional Schedule applies to a summons because of a transition determination, the National Anti-Corruption Commissioner must, as soon as practicable after making the transition determination:

- (a) give the recipient of the summons a copy of the transition determination; and
- (b) advise the recipient of the summons, in writing, of:
 - (i) the effect of subitem 11(3) of the Transitional Schedule; and
 - (ii) the person's rights and obligations under the new Act as a consequence.

12 Directions in relation to confidentiality

If subitem 12(3) of the Transitional Schedule applies to a direction given to a person because of a transition determination, the National Anti-Corruption Commissioner must, as soon as practicable after making the transition determination:

- (a) give the person a copy of the transition determination; and
- (b) advise the person, in writing, of the effect of subitem 12(3) of the Transitional Schedule.

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13 Disclosure of hearing material and derivative material

Despite the repeal of the old Act, Subdivision EAA of Division 2 of Part 9 of that Act continues to apply to:

- (a) hearing material within the meaning of that Act (whether the hearing was held before or after the transition time); and
- (b) derivative material within the meaning of that Act.

Part 4—Requirements or permissions etc. under other Acts

Division 1—Crimes Act 1914

14 Cancellation of controlled operation authorities

If:

- (a) before the transition time, the authority to conduct a controlled operation was cancelled under section 15GY of the *Crimes Act 1914* by a person who was an ACLEI authorising officer (within the meaning of Part 1AB of that Act as in force at the time of the cancellation); and
- (b) the cancellation was to take effect at a specified later time that is after the transition time;

the cancellation takes effect at the specified time as if the cancellation order had been given by a NACC authorising officer (within the meaning of Part 1AB of the *Crimes Act 1914* as amended by Schedule 1 to the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*).

15 Reports to Minister and Ombudsman in relation to controlled operations

Six-monthly reports

- (1) For the first report that the National Anti-Corruption Commissioner is required to submit under section 15HM of the *Crimes Act 1914*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the period of 6 months to which the report relates.

Annual reports

- (2) For the first report that the National Anti-Corruption Commissioner is required to submit under section 15HN of the *Crimes Act 1914*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the period of 12 months to which the report relates.

16 Documents connected with controlled operations

Documents and records that, immediately before the transition time, the Integrity Commissioner had caused to be kept in accordance with section 15HP of the *Crimes Act 1914* are, from the transition time, taken to be records that the National Anti-Corruption Commissioner must cause to be kept in accordance with that section.

17 General register for controlled operations

- (1) This section applies in relation to the general register (the *previous register*) that the Integrity Commissioner caused to be kept in accordance with section 15HQ of the *Crimes Act 1914*.

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- (2) From the transition time, the contents of the previous register are to be incorporated into the general register that the National Anti-Corruption Commissioner must cause to be kept under that section.

18 Cancellation of integrity testing authorities

If:

- (a) before the transition time, the authority to conduct an integrity testing operation was cancelled under section 15JL of the *Crimes Act* by any of the following:
 - (i) the Integrity Commissioner;
 - (ii) an Assistant Integrity Commissioner;
 - (iii) an SES employee in the Australian Commission for Law Enforcement Integrity; and
- (b) the cancellation was to take effect at a stated later time that is after the transition time;

the cancellation takes effect at the stated time as if the cancellation order had been given by the National Anti-Corruption Commissioner.

19 Annual report to Law Enforcement Minister for integrity testing operations

For the first report that the National Anti-Corruption Commissioner is required to submit under section 15JS of the *Crimes Act 1914*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the period of 12 months to which the report relates.

20 Cancellation of assumed identity authorities

If:

- (a) before the transition time, the Integrity Commissioner cancelled an authority under section 15KE of the *Crimes Act 1914*; and
- (b) the cancellation was to take effect on a stated day that is the day of the transition time or a later day;

the cancellation takes effect on the stated day as if the authority were cancelled by the National Anti-Corruption Commissioner.

21 Annual report to Minister about authorities for assumed identities

For the first report that the National Anti-Corruption Commissioner is required to submit under section 15LD of the *Crimes Act 1914*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the financial year to which the report relates.

22 Record keeping for assumed identities

Records that, immediately before the transition time, were kept by the Integrity Commissioner in accordance with section 15LF of the *Crimes Act 1914* are, from

the transition time, taken to be records that the National Anti-Corruption Commissioner must keep in accordance with that section.

23 Annual report to Minister about witness identity protection certificates

For the first report that the National Anti-Corruption Commissioner is required to submit under section 15MU of the *Crimes Act 1914*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the financial year to which the report relates.

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Division 2—Proceeds of Crime Act 2002

24 Responsible custodian

If, immediately before the transition time, the head of the Australian Commission for Law Enforcement Integrity was the responsible custodian of a thing for the purposes of the *Proceeds of Crime Act 2002*, the head of the National Anti-Corruption Commission is taken to be the responsible custodian of the thing from the transition time.

25 Authorised officers

If:

- (a) before the transition time, a thing was seized under a search warrant issued under section 225 of the *Proceeds of Crime Act 2002*, or seized under section 251 of that Act; and
- (b) the authorised officer responsible for executing the warrant or who seized the thing under section 251 of that Act was an authorised officer by reason of paragraph (aa) of the definition of **authorised officer** in section 338 of that Act, as in force at the time the thing was seized; and
- (c) immediately after the transition time, the person is no longer an authorised officer;

a reference in sections 256 to 258 of that Act to the authorised officer is taken to include a reference to the National Anti-Corruption Commissioner.

Division 3—Surveillance Devices Act 2004

26 Reports to Minister on warrants and authorisations

If, before the transition time:

- (a) a warrant was issued, or an authorisation was given, under the *Surveillance Devices Act 2004* to a law enforcement officer belonging to or seconded to the Australian Commission for Law Enforcement Integrity; and
- (b) the warrant or authorisation had ceased to be in force; and
- (c) the Integrity Commissioner had not complied with section 49 of that Act in relation to the warrant or authorisation;

section 49 of that Act applies to the National Anti-Corruption Commissioner as if the warrant had been issued or authorisation had been given to a law enforcement officer belonging to the National Anti-Corruption Commission.

27 Notification to Ombudsman in relation to warrants

If, before the transition time:

- (a) a warrant was issued under the *Surveillance Devices Act 2004* in response to an application by a law enforcement officer of the Australian Commission for Law Enforcement Integrity; and
- (b) the warrant had ceased to be in force; and
- (c) subsection 49A(1) or (2) or section 49B of that Act (the **relevant provision**) applied to the Integrity Commissioner in relation to the warrant; and
- (d) the Integrity Commissioner had not complied with the relevant provision;

the relevant provision applies to the National Anti-Corruption Commissioner as if the warrant had been issued in response to an application by a law enforcement officer of the National Anti-Corruption Commission.

28 Annual report to Minister about warrants

For the first report that the National Anti-Corruption Commissioner must submit to the Minister under section 50 of the *Surveillance Devices Act 2004*, that section applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the financial year to which the report relates.

29 Deferral of inclusion of information in annual report

If information has not been included in a report of the Integrity Commissioner tabled in Parliament under subsection 50(4) of the *Surveillance Devices Act 2004* because of subsection 50A(3) of that Act, subsections 50A(4) and (5) of that Act apply after the transition time as if the report had been submitted, and the advice not to include the information mentioned in subsection 50A(2) of that Act had been given, by the National Anti-Corruption Commissioner.

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30 Keeping documents connected with warrants and authorisations

Documents that, before the transition time, the Integrity Commissioner had caused to be kept in accordance with section 51 of the *Surveillance Devices Act 2004* are, from the transition time, taken to be documents that the National Anti-Corruption Commissioner must cause to be kept in accordance with that section.

31 Keeping other records

Records that, before the transition time, the Integrity Commissioner had caused to be kept in accordance with section 52 of the *Surveillance Devices Act 2004* are, from the transition time, taken to be records that the National Anti-Corruption Commissioner must cause to be kept in accordance with that section.

32 Register of warrants and authorisations

- (1) This section applies in relation to the register (the *previous register*) that the Integrity Commissioner caused to be kept in accordance with section 53 of the *Surveillance Devices Act 2004*.
- (2) From the transition time, the contents of the previous register are to be incorporated into the register that the National Anti-Corruption Commissioner must cause to be kept under that section.

33 Evidentiary certificates

For the purposes of an appropriate authorising officer of the National Anti-Corruption Commission issuing a written certificate under section 62 of the *Surveillance Devices Act 2004*, a person who was a law enforcement officer of the Australian Commission for Law Enforcement Integrity is taken to have been a law enforcement officer of the National Anti-Corruption Commission.

Division 4—Telecommunications (Interception and Access) Act 1979

34 Notifications to Ombudsman in relation to Part 5.3 warrants

If, before the transition time:

- (a) a Part 5.3 warrant, within the meaning of the *Telecommunications (Interception and Access) Act 1979*, was issued in response to an application by the Australian Commission for Law Enforcement Integrity; and
 - (b) the warrant had ceased to be in force; and
 - (c) subsection 59B(1) or (2) of that Act (the **relevant provision**) applied to the Integrity Commissioner in relation to the warrant; and
 - (d) the Integrity Commissioner had not complied with the relevant provision;
- the relevant provision applies to the National Anti-Corruption Commissioner as if the warrant had been issued in response to an application by the National Anti-Corruption Commission.

35 Evidentiary certificates

For the purposes of a certifying officer of the National Anti-Corruption Commission issuing a written certificate under subsection 61(4) of the *Telecommunications (Interception and Access) Act 1979*, a person who was an officer or staff member of the Australian Commission for Law Enforcement Integrity is taken to have been an officer or staff member of the National Anti-Corruption Commission.

36 Dealing with intercepted information

- (1) For the purposes of section 67 of the *Telecommunications (Interception and Access) Act 1979*, a warrant that was issued to the Australian Commission for Law Enforcement Integrity is taken to have been issued to the National Anti-Corruption Commission.
- (2) For the purposes of sections 67 and 68 of the *Telecommunications (Interception and Access) Act 1979*, information that:
 - (a) is lawfully intercepted information or interception warrant information that was obtained by the Australian Commission for Law Enforcement Integrity; and
 - (b) was transferred to the National Anti-Corruption Commissioner after the transition time under item 51 of the Transitional Schedule;is taken to have been obtained by the National Anti-Corruption Commission.

37 Keeping documents connected with issue of warrants

Documents that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with section 80 of the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be documents that the National Anti-Corruption

Section 38

Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that section.

38 Keeping other records in connection with interceptions

Records that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with subsection 81(3) of the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be records that the National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that subsection.

39 Reports to Minister regarding telecommunications service warrants

If, before the transition time:

- (a) a telecommunications service warrant, within the meaning of the *Telecommunications (Interception and Access) Act 1979*, was issued to the Australian Commission for Law Enforcement Integrity; and
- (b) the warrant had ceased to be in force; and
- (c) the Integrity Commissioner had not complied with subsection 94(2) of that Act in relation to the warrant;

subsection 94(2) of that Act applies to the National Anti-Corruption Commissioner as if the warrant had been issued to the National Anti-Corruption Commission.

40 Reports to Minister regarding named person warrants

If, before the transition time:

- (a) a named person warrant, within the meaning of the *Telecommunications (Interception and Access) Act 1979*, was issued to the Australian Commission for Law Enforcement Integrity; and
- (b) the warrant had ceased to be in force; and
- (c) the Integrity Commissioner had not complied with section 94B of that Act in relation to the warrant;

section 94B of that Act applies to the National Anti-Corruption Commissioner as if the warrant had been issued to the National Anti-Corruption Commission.

41 Annual report by Minister about Part 2-5 warrants

For the first report that the Minister must cause to be prepared after the transition time in accordance with Division 2 of Part 2-8 of the *Telecommunications (Interception and Access) Act 1979*, after the transition time, that Division applies as if the Australian Commission for Law Enforcement Integrity continued to be a Commonwealth agency.

42 Deferral of inclusion of information in Ministerial report—interceptions

If:

- (a) information has not been included in a Ministerial report prepared under Division 2 of Part 2-8 of the *Telecommunications (Interception and Access) Act 1979* because of subsection 103B(3) of that Act; and
 - (b) advice about the information was given, before the transition time, by the Integrity Commissioner under subsection 103B(2) of that Act;
- subsections 103B(4) and (5) of that Act apply after the transition time as if the advice had been given by the National Anti-Corruption Commissioner.

43 Annual report to Minister about destruction of records

For the first report that the National Anti-Corruption Commissioner is required to give the Minister under subsection 150(2) of *Telecommunications (Interception and Access) Act 1979*, the report must also set out the extent to which information and records in the possession of the Australian Commission for Law Enforcement Integrity were destroyed in accordance with subsection 150(1) of that Act.

44 Keeping records relating to stored communications

Records that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with section 151 of the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be records that the National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that section.

45 Annual report by Minister about stored communications warrants

For the first report that the Minister must cause to be prepared after the transition time that the Minister in accordance with Division 2 of Part 3-6 of the *Telecommunications (Interception and Access) Act 1979*, that Division applies as if the Australian Commission for Law Enforcement Integrity continued to be a criminal law-enforcement agency.

46 Retention of authorisations for access to information

Authorisations that, immediately before the transition time, were retained by the Integrity Commissioner in accordance with subsection 185(1) of the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be authorisations that the National Anti-Corruption Commissioner must retain in accordance with that subsection.

47 Annual report to Minister about authorisations for access to information

For the first report that the National Anti-Corruption Commissioner is required to give the Minister under section 186 of the *Telecommunications (Interception and Access) Act 1979*, that section applies as if the Commissioner had also been the head of the Australian Commission for Law Enforcement Integrity during the year ending on 30 June to which the report relates.

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48 Keeping records relating to authorisations for access to information

Records that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with section 186A of the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be records that National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that section.

49 Notifications to Ombudsman in relation to international production orders

If, before the transition time:

- (a) an international production order, within the meaning of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979*, was issued in response to application by the Australian Commission for Law Enforcement Integrity; and
 - (b) the order had ceased to be in force; and
 - (c) subclause 81(1) or (2) of Schedule 1 to that Act (the **relevant provision**) applied to Integrity Commissioner in relation to the warrant; and
 - (d) the Integrity Commissioner had not complied with the relevant provision;
- the relevant provision applies to the National Anti-Corruption Commissioner as if the warrant had been issued in response to an application by the National Anti-Corruption Commission.

50 Annual report to Minister about international production orders

For the first report that the National Anti-Corruption Commissioner is required to give the Minister under clause 128 of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979*, that clause applies as if the Commissioner had also been the chief officer of the Australian Commission for Law Enforcement Integrity during the financial year to which the report relates.

51 Deferral of inclusion of information in Ministerial report—international production orders

If:

- (a) information has not been included in a Ministerial report prepared under clause 131 of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979* because of subclause 132(3) of Schedule 1 to that Act; and
 - (b) advice about the information was given, before the transition time, by the Integrity Commissioner under subclause 132(2) of Schedule 1 to that Act;
- subclauses 132(4) and (5) of Schedule 1 to that Act apply after the transition time as if the advice had been given by the National Anti-Corruption Commissioner.

52 Keeping documents associated with international production orders

Documents that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with clause 133 of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be records that National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that section.

Act 1979 are, from the transition time, taken to be documents that the National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that clause.

53 Keeping other records associated with international production orders

Records that, immediately before the transition time, were kept in the records of the Australian Commission for Law Enforcement Integrity in accordance with clause 134 of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979* are, from the transition time, taken to be records that the National Anti-Corruption Commissioner must cause to be kept in the records of the National Anti-Corruption Commission in accordance with that clause.

54 Destruction of records relating to international production orders

For the purposes of the application of clause 140 of Schedule 1 to the *Telecommunications (Interception and Access) Act 1979* to records or copies mentioned in that clause that are in the possession of the National Anti-Corruption Commission after the transition time:

- (a) a reference in paragraph (1)(a) or (3)(a) of that clause to an application made by a relevant agency is taken to include a reference to an application made by the Australian Commission for Law Enforcement Integrity; and
- (b) records or copies that were made available to the Australian Commission for Law Enforcement Integrity are taken to have been made available to the National Anti-Corruption Commission.

Part 5—ACLEI corruption issues

55 Inspector to give certain persons copy of NACC corruption issue transition notice

- (1) This section applies if the Inspector issues a NACC corruption issue transition notice.
- (2) The Inspector must, as soon as reasonably practicable, give a copy of the NACC corruption issue transition notice to the Minister.
- (3) If:
 - (a) the NACC corruption issue transition notice relates to an investigation or special investigation of an ACLEI corruption issue that was raised by an allegation or information referred to the Minister by a person under section 154 of the old Act; and
 - (b) the person elected under section 155 of the old Act to be kept informed of the action taken in relation to the ACLEI corruption issue raised by the allegation or information, and has not revoked the election;the Inspector must, as soon as reasonably practicable, give a copy of the NACC corruption issue transition notice to the person.

56 Providing information in relation to previous investigations of ACLEI corruption issues

- (1) If the Inspector gives a copy of a NACC corruption issue transition notice to the National Anti-Corruption Commissioner in relation to an investigation of an ACLEI corruption issue, the National Anti-Corruption Commissioner must give the Inspector all information relevant to the ACLEI corruption issue that is in the Commissioner's possession or control.
- (2) If the Inspector gives a copy of a NACC corruption issue transition notice to a special investigator in relation to a special investigation of an ACLEI corruption issue, the special investigator must give the Inspector all information relevant to the ACLEI corruption issue that is in the special investigator's possession or control.

57 Actions after completion of investigations of ACLEI corruption issues

Investigations continued after transition time

- (1) If an investigation of an ACLEI corruption issue is continued under subitem 36(2) of the Transitional Schedule, the following provisions of the old Act apply to reporting on the investigation:
 - (a) section 51 as applied by section 160;
 - (b) sections 162 to 165.

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- (2) If a special investigation of an ACLEI corruption issue is continued under subitem 36(3) of the Transitional Schedule, the following provisions of the old Act apply to reporting on the investigation:
- (a) section 51 as applied by section 167;
 - (b) sections 169 to 173, as if the references to the Integrity Commissioner included a reference to the National Anti-Corruption Commissioner.

Investigations completed before transition time—investigation by Integrity Commissioner

- (3) If, before the transition time, the Integrity Commissioner:
- (a) completed an investigation of an ACLEI corruption issue; and
 - (b) had not yet prepared a report on the investigation under subsection 162(1) of the old Act;
- the following provisions of the old Act continue to apply in relation to the investigation:
- (c) section 51 as applied by section 160;
 - (d) sections 162 and 163.
- (4) If, before the transition time, the Integrity Commissioner:
- (a) completed an investigation of an ACLEI corruption issue; and
 - (b) had not yet given the advice (if any) required by section 164 of the old Act;
- that section continues to apply in relation to the investigation.
- (5) If, before the transition time, the Integrity Commissioner:
- (a) completed an investigation of an ACLEI corruption issue; and
 - (b) had not yet exercised the power in section 165 of the old Act to advise a person of the outcome of the investigation;
- that section continues to apply in relation to the investigation.

Investigations completed before transition time—special investigations

- (6) If, before the transition time, a special investigator:
- (a) completed a special investigation of an ACLEI corruption issue; and
 - (b) had not yet prepared a report on the investigation under subsection 169(1) of the old Act;
- the following provisions of the old Act continue to apply in relation to the investigation:
- (c) section 51 as applied by section 167;
 - (d) sections 169 to 171.
- (7) If, before the transition time, a special investigator:
- (a) completed a special investigation of an ACLEI corruption issue; and
 - (b) had not yet given the advice (if any) required by section 172 of the old Act;
- that section continues to apply in relation to the investigation.
- (8) If, before the transition time, a special investigator:
- (a) completed a special investigation of an ACLEI corruption issue; and

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- (b) had not yet exercised the power in section 173 of the old Act to advise a person of the outcome of the investigation;
that section continues to apply in relation to the investigation.

58 Dealing with ACLEI corruption issues arising after transition time

- (1) This section applies in relation to an ACLEI corruption issue that relates to conduct engaged in before the transition time, if:
 - (a) the ACLEI corruption issue is not a NACC corruption issue; and
 - (b) before the transition time, the Minister:
 - (i) was not aware of the ACLEI corruption issue; or
 - (ii) had not made a decision in relation to the ACLEI corruption issue under subsection 156(2) of the old Act.
- (2) The following provisions of the old Act apply in relation to the ACLEI corruption issue as if the old Act had not been repealed:
 - (a) sections 154, 155, 157 and 158;
 - (b) Divisions 3 and 4 of Part 12.
- (3) Section 156 of the old Act applies in relation to the ACLEI corruption issue as if:
 - (a) the old Act had not been repealed; and
 - (b) a reference to the Integrity Commissioner included a reference to the National Anti-Corruption Commissioner.

Part 6—Handling information

59 Dealing with evidence obtained in investigation or public inquiry

Evidence obtained in investigation or public inquiry continued after transition time

- (1) Part 10 of the old Act applies to evidence obtained in an existing investigation or existing inquiry continued under subitem 2(2) of the Transitional Schedule, as if the old Act had not been repealed.

Evidence obtained in investigation or public inquiry completed before transition time

- (2) If, before the transition time:
- (a) the Integrity Commissioner obtained evidence to which Part 10 of the old Act applied; and
 - (b) the investigation or public inquiry in which the evidence was obtained was completed; and
 - (c) the Integrity Commissioner had not complied with Part 10 of the old Act in relation to the evidence;
- Part 10 of the old Act continues to apply to the evidence.

60 Attorney-General's certificates about release of information

For the purposes of the operation of the old Act after the transition time as provided for by the Transitional Schedule and this instrument, Part 11 of the old Act continues to apply as if the old Act had not been repealed.

61 Confidentiality requirements under old Act

For the purposes of the operation of the old Act after the transition time as provided for by the Transitional Schedule and this instrument, Division 5 of Part 13 of the old Act continues to apply as if the old Act had not been repealed.

Part 7—Reporting

62 Reports on investigations and public inquiries to be laid before each House of Parliament

Despite the repeal of the old Act, section 203 of that Act continues to apply in relation to a report on an investigation or public inquiry conducted under that Act.

63 Annual reports for financial year ended before transition time

If the National Anti-Corruption Commissioner prepares an annual report under subitem 40(2) of the Transitional Schedule, section 202 of the old Act applies in relation to the annual report as if the old Act had not been repealed.

64 Completion of special reports

If the National Anti-Corruption Commissioner completes a special report under subitem 42(2) of the Transitional Schedule:

- (a) the Minister must cause the special report to be laid before each House of the Parliament within 15 sitting days of that House after its receipt by the Minister; and
- (b) section 205 of the old Act applies in relation to the special report as if the old Act had not been repealed.

Part 8—Matters relating to other agencies

65 Records or disclosure of Immigration and Border Protection information

Despite the amendment of section 43 of the *Australian Border Force Act 2015* (the **ABF Act**) by Schedule 1 to the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*, after the transition time an entrusted person (within the meaning of the ABF Act) may make a record of, or disclose, Immigration and Border Protection information (within the meaning for the ABF Act) for the purposes of the operation of the old Act (and regulations under the old Act) as provided for by the Transitional Schedule and this instrument.

66 Secrecy under the *Australian Crime Commission Act 2002*

Despite the amendment of the definition of **relevant Act** in subsection 51(4) of the *Australian Crime Commission Act 2002* by Schedule 1 to the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*, after the transition time that definition is taken to include a reference to the old Act and regulations under the old Act, as continued in operation by the Transitional Schedule and this instrument.

67 Secrecy under the *Australian Federal Police Act 1979*

Despite the amendment of section 60A of the *Australian Federal Police Act 1979* by Schedule 1 to the *National Anti-Corruption Commission (Consequential and Transitional Provisions) Act 2022*, after the transition time a person to whom that section applies may make a record of any prescribed information, or divulge or communicate any prescribed information to any other person, for the purposes of the operation of the old Act (and regulations under the old Act) as provided for by the Transitional Schedule and this instrument.

68 Continuation of investigations of corruption issues under the *Australian Federal Police Act 1979*

If an investigation of a corruption issue under Division 3 of Part V of the *Australian Federal Police Act 1979* has been commenced but is not yet completed at the transition time, the investigator for that issue (within the meaning of that Act) may continue to conduct the investigation as if the meanings of the following terms in that Act before the transition time continued to apply:

- (a) **corrupt conduct**;
- (b) **corruption issue**;
- (c) **engages in corrupt conduct**.

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69 Consultation on allocation of investigation of corruption issues under the *Australian Federal Police Act 1979*

If:

- (a) the investigation of a corruption issue under Division 3 of Part V of the *Australian Federal Police Act 1979* had not commenced before the transition time; and
- (b) the Commissioner of Police had consulted with the Integrity Commissioner before the transition time in accordance with subsection 40TO(7) of that Act (as in force before the transition time);

the Commissioner of Police is taken, after the transition time, to have consulted with the National Anti-Corruption Commissioner.

70 Complaint to Ombudsman in respect of action taken by ACLEI etc.

- (1) This section applies in relation to a complaint made to the Ombudsman with respect to action taken by:
 - (a) the Australian Commission for Law Enforcement Integrity; or
 - (b) the Integrity Commissioner; or
 - (c) an Assistant Integrity Commissioner.
- (2) After the transition time, the Ombudsman may deal with the complaint under the *Ombudsman Act 1976* as if the Commission, Integrity Commissioner or Assistant Integrity Commissioner continued to be a prescribed authority.
- (3) A reference in the *Ombudsman Act 1976* to the prescribed authority to which the complaint or the investigation of the complaint relates is taken to include a reference to the National Anti-Corruption Commissioner.

71 Disclosure of ACLEI information by Ombudsman

Section 35C of the *Ombudsman Act 1976*, as in force immediately before the transition time, continues to apply in relation to a certificate given to the Ombudsman in accordance with that section.

Part 9—Miscellaneous transitional provisions

72 Classes of decisions that are not decisions to which section 13 of the *Administrative Decisions (Judicial Review) Act 1977* applies

Despite the repeal of paragraph (eaa) of Schedule 2 to the *Administrative Decisions (Judicial Review) Act 1977*, that paragraph applies in relation to decisions under the old Act in connection with a corruption investigation or public inquiry (within the meaning of that Act) as continued under the Transitional Schedule.

73 Financial assistance in relation to applications for judicial review

After the transition time, a person may apply for financial assistance, in accordance with regulations made for the purposes of subparagraph 280(2)(a)(ii) of the new Act, in respect of an application, or proposed application, to the Federal Court or the Federal Circuit and Family Court of Australia (Division 2) under the *Administrative Decisions (Judicial Review) Act 1977* for an order of review in respect of a matter arising under the old Act (as if it were a matter arising under the new Act).

74 Acts and practices for the purposes of the *Privacy Act 1988*

Despite the repeal and substitution of paragraph 7(1)(ga) of the *Privacy Act 1988*, after the transition time a reference in that Act to an act or to a practice does not include a reference to an act done, or a practice engaged in, in relation to a record that originated with, or was received from, the Integrity Commissioner or a staff member of ACLEI (within the meaning of the old Act).

75 References to the Integrity Commissioner etc. in instruments

- (1) For the purposes of subitem 53(3) of the Transitional Schedule, subitem 53(2) of that Schedule does not apply to the following instruments:
 - (a) the *Australian Commission for Law Enforcement Integrity Enterprise Agreement 2017-2020*;
 - (b) the *Australian Commission for Law Enforcement Integrity Enterprise Agreement Determination 2020/1*.
- (2) The *Australian Commission for Law Enforcement Integrity Enterprise Agreement 2017-2020* has effect, after the transition time, as if:
 - (a) a reference in the instrument to the Integrity Commissioner were a reference to the Chief Executive Officer of the National Anti-Corruption Commission; and
 - (b) a reference in the instrument to the Australian Commission for Law Enforcement Integrity or the ACLEI were a reference to the National Anti-Corruption Commission;
 except to the extent that those references relate to the making or signing of the instrument.

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- (3) The *Australian Commission for Law Enforcement Integrity Enterprise Agreement Determination 2020/1* has effect, after the transition time, as if a reference in the instrument to the Australian Commission for Law Enforcement Integrity were a reference to the National Anti-Corruption Commission.