



Law Enforcement Legislation Amendment (State Bodies and Other Measures) Act 2016

No. 86, 2016

**An Act to amend the law relating to law
enforcement, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

Contents

| | | |
|--|-------------------|----|
| 1 | Short title..... | 1 |
| 2 | Commencement..... | 2 |
| 3 | Schedules..... | 3 |
| Schedule 1—Law Enforcement Conduct Commission of New South Wales | | 4 |
| Part 1—Definitions | | 4 |
| Part 2—Telecommunications (Interception and Access) Act 1979 | | 5 |
| Division 1—Amendments | | 5 |
| <i>Telecommunications (Interception and Access) Act 1979</i> | | 5 |
| Division 2—Transitional provisions | | 11 |
| Part 3—Surveillance Devices Act 2004 | | 14 |
| Division 1—Amendments | | 14 |
| <i>Surveillance Devices Act 2004</i> | | 14 |
| Division 2—Transitional provisions | | 14 |
| Part 4—Other amendments | | 16 |
| <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> | | 16 |
| <i>Crimes Act 1914</i> | | 16 |
| <i>Criminal Code Act 1995</i> | | 17 |
| <i>Privacy Act 1988</i> | | 17 |
| <i>Radiocommunications Act 1992</i> | | 18 |
| <i>Taxation Administration Act 1953</i> | | 18 |
| Part 5—General transitional provisions | | 19 |
| Part 6—Transfer of information | | 21 |
| Schedule 2—Independent Broad-based Anti-corruption Commission of Victoria | | 23 |
| <i>Australian Postal Corporation Act 1989</i> | | 23 |
| <i>Criminal Code Act 1995</i> | | 23 |
| <i>Surveillance Devices Act 2004</i> | | 23 |

| | |
|---|----|
| Schedule 3—Unlawful acquisitions | 25 |
| <i>Proceeds of Crime Act 2002</i> | 25 |



Law Enforcement Legislation Amendment (State Bodies and Other Measures) Act 2016

No. 86, 2016

An Act to amend the law relating to law enforcement, and for related purposes

[Assented to 30 November 2016]

The Parliament of Australia enacts:

1 Short title

*This Act is the *Law Enforcement Legislation Amendment (State Bodies and Other Measures) Act 2016*.*

2 Commencement

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

| Commencement information | | |
|---|---|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table | The day this Act receives the Royal Assent. | 30 November 2016 |
| 2. Schedule 1, Part 1 | The later of: (a) the day after this Act receives the Royal Assent; and (b) the day Part 3 of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW) commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 December 2016 |
| 3. Schedule 1, Parts 2 to 5 | The later of: (a) the day after this Act receives the Royal Assent; and (b) the day section 51 of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW) commences. However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | |
| 4. Schedule 1, Part 6 | The later of: (a) the day after this Act receives the Royal Assent; and (b) the day Part 3 of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW) commences. | 1 December 2016 |

| Commencement information | | |
|---------------------------------|--|---------------------|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| | However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | |
| 5. Schedules 2 and 3 | The day after this Act receives the Royal Assent. | 1 December 2016 |

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

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

3 Schedules

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

Schedule 1—Law Enforcement Conduct Commission of New South Wales

Part 1—Definitions

1 Definitions

In this Schedule:

new Commission means the Law Enforcement Conduct Commission of New South Wales.

old Commission means the Police Integrity Commission of New South Wales.

Part 2—Telecommunications (Interception and Access) Act 1979

Division 1—Amendments

Telecommunications (Interception and Access) Act 1979

2 Subsection 5(1) (paragraph (g) of the definition of *certifying officer*)

Repeal the paragraph, substitute:

- (g) in the case of the Law Enforcement Conduct Commission:
 - (i) the Chief Commissioner of the Commission; or
 - (ii) the Commissioner for Integrity of the Commission; or
 - (iii) a person authorised to be a certifying officer of the Commission under subsection 5AC(8); or

3 Subsection 5(1) (paragraphs (h) and (ha) of the definition of *chief officer*)

Repeal the paragraphs, substitute:

- (h) in the case of the Law Enforcement Conduct Commission—the Chief Commissioner of the Commission; or
- (ha) in the case of the Inspector of the Law Enforcement Conduct Commission—the Inspector; or

4 Subsection 5(1) (paragraph (b) of the definition of *eligible authority*)

Repeal the paragraph, substitute:

- (b) in the case of New South Wales:
 - (i) the Crime Commission; or
 - (ii) the Independent Commission Against Corruption; or
 - (iii) the Inspector of the Independent Commission Against Corruption; or
 - (iv) the Law Enforcement Conduct Commission; or
 - (v) the Inspector of the Law Enforcement Conduct Commission; or

5 Subsection 5(1)

Insert:

Inspector of the Law Enforcement Conduct Commission has the same meaning as *Inspector* has in the *Law Enforcement Conduct Commission Act 2016* (NSW).

6 Subsection 5(1) (definition of *Inspector of the Police Integrity Commission*)

Repeal the definition.

7 Subsection 5(1)

Insert:

Law Enforcement Conduct Commission means the Law Enforcement Conduct Commission constituted by the *Law Enforcement Conduct Commission Act 2016* (NSW).

member of the staff of the Inspector of the Law Enforcement Conduct Commission means a member of staff of the Inspector (within the meaning of the *Law Enforcement Conduct Commission Act 2016* (NSW)).

8 Subsection 5(1) (definition of *member of the staff of the Inspector of the Police Integrity Commission*)

Repeal the definition.

9 Subsection 5(1)

Insert:

member of the staff of the Law Enforcement Conduct Commission means a member of staff of the Commission (within the meaning of the *Law Enforcement Conduct Commission Act 2016* (NSW)).

10 Subsection 5(1) (definition of *member of the staff of the Police Integrity Commission*)

Repeal the definition.

11 Subsection 5(1) (paragraphs (h) and (ha) of the definition of officer)

Repeal the paragraphs, substitute:

- (h) in the case of the Law Enforcement Conduct Commission:
 - (i) the Chief Commissioner of the Commission; or
 - (ii) the Commissioner for Integrity of the Commission; or
 - (iii) an Assistant Commissioner of the Commission; or
 - (iv) a member of the staff of the Law Enforcement Conduct Commission; or
- (ha) in the case of the Inspector of the Law Enforcement Conduct Commission:
 - (i) the Inspector; or
 - (ii) an Assistant Inspector of the Commission; or
 - (iii) a member of the staff of the Inspector of the Law Enforcement Conduct Commission; or

12 Subsection 5(1) (paragraph (dc) of the definition of permitted purpose)

Repeal the paragraph, substitute:

- (dc) in the case of the Inspector of the Law Enforcement Conduct Commission—dealing with (by reports and recommendations) conduct amounting to:
 - (i) agency maladministration (within the meaning of subsection (6A)) on the part of the Commission; or
 - (ii) officer misconduct (within the meaning of section 122 of the *Law Enforcement Conduct Commission Act 2016* (NSW)) or officer maladministration (within the meaning of that section) on the part of officers (within the meaning of that Act) of the Commission;whether or not the subject of a complaint; or

13 Subsection 5(1) (paragraph (e) of the definition of permitted purpose)

Omit “Police Integrity Commission” (first occurring), substitute “Law Enforcement Conduct Commission”.

14 Subsection 5(1) (subparagraphs (e)(i), (ia) and (ib) of the definition of *permitted purpose*)

Repeal the subparagraphs, substitute:

- (i) an investigation under Part 6 of the *Law Enforcement Conduct Commission Act 2016* (NSW) in respect of conduct to which subsection (7) of this section applies; or

15 Subsection 5(1) (subparagraph (e)(ii) of the definition of *permitted purpose*)

Omit “, (ia) or (ib)”.

16 Subsection 5(1)

Repeal the following definitions:

- (a) definition of *Police Integrity Commission*;
- (b) definition of *Police Integrity Commission Act*.

17 Subsection 5(1) (paragraphs (f) and (fa) of the definition of *prescribed investigation*)

Repeal the paragraphs, substitute:

- (f) in the case of the Law Enforcement Conduct Commission—means an investigation that the Commission is conducting in the performance of its functions under the *Law Enforcement Conduct Commission Act 2016* (NSW); or
- (fa) in the case of the Inspector of the Law Enforcement Conduct Commission—means an investigation that the Inspector is conducting in the performance of the Inspector’s functions under the *Law Enforcement Conduct Commission Act 2016* (NSW); or

18 Subsection 5(1) (paragraphs (h) and (ha) of the definition of *relevant offence*)

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

19 At the end of section 5

Add:

Permitted purposes—Inspector of the Law Enforcement Conduct Commission

- (6A) For the purposes of subparagraph (dc)(i) of the definition of **permitted purpose** in subsection (1), **agency maladministration** in relation to the Law Enforcement Conduct Commission has the same meaning as it has in the *Law Enforcement Conduct Commission Act 2016* (NSW) in relation to the NSW Police Force or the Crime Commission.

Permitted purposes—Law Enforcement Conduct Commission

- (7) For the purposes of subparagraph (e)(i) of the definition of **permitted purpose** in subsection (1), this subsection applies to conduct that:
- (a) both:
 - (i) involves a police officer, administrative employee or Crime Commission officer; and
 - (ii) the Law Enforcement Conduct Commission has decided is (or could be) serious misconduct or officer maladministration that is serious maladministration and should be investigated; or
 - (b) both:
 - (i) involves the Commissioner of Police or a Deputy Commissioner of Police; and
 - (ii) is (or could be) police misconduct or officer maladministration; or
 - (c) both:
 - (i) involves the Crime Commissioner or an Assistant Commissioner of the Crime Commission; and
 - (ii) is (or could be) Crime Commission officer misconduct or officer maladministration; or
 - (d) both Houses of the Parliament of New South Wales refer to the Commission for investigation under section 196 of the *Law Enforcement Conduct Commission Act 2016* (NSW).
- (8) An expression used in subsection (7) of this section and in the *Law Enforcement Conduct Commission Act 2016* (NSW) has the same meaning in that subsection as in that Act.

20 Subsections 5AC(5) and (6)

Omit “senior executive officer within the meaning of the *Public Sector Employment and Management Act 2002* of New South Wales”, substitute “Public Service senior executive (within the meaning of the *Government Sector Employment Act 2013* (NSW))”.

21 Subsection 5AC(8)

Repeal the subsection, substitute:

- (8) The Chief Commissioner of the Law Enforcement Conduct Commission may authorise, in writing:
- (a) an Assistant Commissioner of the Commission; or
 - (b) a member of the staff of the Law Enforcement Conduct Commission who occupies an office or position at an equivalent level to that of a Public Service senior executive (within the meaning of the *Government Sector Employment Act 2013* (NSW));
- to be a certifying officer of the Commission.

22 Paragraphs 5B(1)(k) and (ka)

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

23 Subparagraphs 6A(1)(c)(vi) and (vii)

Repeal the subparagraphs, substitute:

- (vi) the Law Enforcement Conduct Commission;
- (vii) the Inspector of the Law Enforcement Conduct Commission;

24 Paragraph 6L(2)(b)

Omit “Police Integrity Commission” (wherever occurring), substitute “Law Enforcement Conduct Commission”.

25 Paragraph 39(2)(g)

Repeal the paragraph, substitute:

- (g) in the case of the Law Enforcement Conduct Commission:
- (i) the Chief Commissioner of the Commission; or
 - (ii) the Commissioner for Integrity of the Commission; or

- (iii) an Assistant Commissioner of the Commission; or
- (iv) a member of the staff of the Law Enforcement Conduct Commission; or

26 Paragraph 68(f)

Omit “Police Integrity Commission—to the Commissioner of the Police Integrity Commission”, substitute “Law Enforcement Conduct Commission—to the Chief Commissioner of the Commission”.

27 Paragraph 68(fa)

Omit “Police Integrity Commission—to the Inspector of the Police Integrity Commission”, substitute “Law Enforcement Conduct Commission—to the Inspector”.

28 Paragraph 110A(1)(h)

Repeal the paragraph, substitute:

- (h) the Law Enforcement Conduct Commission;

Division 2—Transitional provisions

29 Warrants issued to old Commission

An interception warrant, stored communication warrant or journalist information warrant that:

- (a) was issued to the old Commission before the commencement of this item under the *Telecommunications (Interception and Access) Act 1979*; and
- (b) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued to the new Commission.

30 Authorisations made by old Commission

An authorisation that:

- (a) was made by an authorised officer of the old Commission under Division 4 of Part 4-1 of the *Telecommunications (Interception and Access) Act 1979* before the commencement of this item; and
- (b) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been made by an authorised officer of the new Commission.

31 Evidentiary certificates for actions of officers etc. of old Commission

A written certificate issued under section 61, 130 or 185C of the *Telecommunications (Interception and Access) Act 1979* that:

- (a) was issued by a certifying officer of the old Commission before the commencement of this item; and
- (b) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued by a certifying officer of the new Commission.

32 Evidentiary certificates for warrants issued to old Commission

The Managing Director or secretary, or an authorised employee, of a carrier, or a body corporate of which the carrier is a subsidiary, may issue a written certificate under section 61 or 129 of the *Telecommunications (Interception and Access) Act 1979*, after the commencement of this item, in relation to acts or things that:

- (a) were done before that commencement; and
- (b) were done to enable the execution of a warrant issued to the old Commission before that commencement.

33 Evidentiary certificates for authorisations made by old Commission

The Managing Director or secretary, or an authorised employee, of a carrier, or a body corporate of which the carrier is a subsidiary, may issue a written certificate under section 185A of the *Telecommunications (Interception and Access) Act 1979*, after the commencement of this item, in relation to acts or things that:

- (a) were done before that commencement; and
- (b) were done to enable the disclosure of information or documents covered by an authorisation that was made by the old Commission under Division 4 of Part 4-1 of that Act before that commencement.

34 Preservation notices issued by old Commission

A domestic preservation notice that:

- (a) was issued by the old Commission under the *Telecommunications (Interception and Access) Act 1979* before the commencement of this item; and
- (b) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued by the new Commission.

35 Evidentiary certificates for preservation notices relating to actions of officers etc. of old Commission

A written certificate issued under section 107U of the *Telecommunications (Interception and Access) Act 1979* that:

- (a) was issued by a certifying official of the old Commission before the commencement of this item; and
- (b) was in force immediately before that commencement;

continues in force (and may be dealt with) on and after that commencement as if it had been issued by a certifying official of the new Commission.

36 Evidentiary certificates for preservation notices issued by old Commission

The Managing Director or secretary, or an authorised employee, of a carrier, or a body corporate of which the carrier is a subsidiary, may issue a written certificate under section 107T of the *Telecommunications (Interception and Access) Act 1979*, after the commencement of this item, in relation to acts or things that:

- (a) were done before that commencement; and
- (b) were done in order to comply with a preservation notice issued by the old Commission before that commencement.

Part 3—Surveillance Devices Act 2004

Division 1—Amendments

Surveillance Devices Act 2004

37 Subsection 6A(7) (table item 20)

Repeal the item, substitute:

- | | | | | |
|----|---|--|---|--|
| 20 | Law Enforcement Conduct Commission of New South Wales | the Chief Commissioner of the Commission | an officer of the Commission (within the meaning of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW)) | (a) the Chief Commissioner; or (b) the Commissioner for Integrity; or (c) an Assistant Commissioner, or an executive level member of staff of the Commission (within the meaning of that Act), the chief officer authorises under subsection (5) |
|----|---|--|---|--|

38 Paragraph 6A(8)(a)

Repeal the paragraph, substitute:

- (a) if the State is New South Wales—a Public Service senior executive (within the meaning of the *Government Sector Employment Act 2013* (NSW)); or

Division 2—Transitional provisions

39 Warrants issued to old Commission

A warrant that:

- (a) was issued, before the commencement of this item under the *Surveillance Devices Act 2004* to a law enforcement officer who belonged or was seconded to the old Commission; and
 - (b) was in force immediately before that commencement;
- continues in force (and may be dealt with) on and after that commencement as if it had been issued to a law enforcement officer who belonged or was seconded to the new Commission.

40 Authorisations made by old Commission

An emergency authorisation or tracking device authorisation that:

- (a) was given by an appropriate authorising officer of the old Commission under the *Surveillance Devices Act 2004* before the commencement of this item; and
 - (b) was in force immediately before that commencement;
- continues in force (and may be dealt with) on and after that commencement as if it had been given by an appropriate authorising officer of the new Commission.

41 Evidentiary certificates for actions of law enforcement officer etc. of old Commission

A written certificate issued under section 62 of the *Surveillance Devices Act 2004* that:

- (a) was issued by an appropriate authorising officer of the old Commission, or by a person assisting an appropriate authorising officer of the old Commission, before the commencement of this item; and
 - (b) was in force immediately before that commencement;
- continues in force (and may be dealt with) on and after that commencement as if it had been issued by an appropriate authorising officer of the new Commission.

Part 4—Other amendments

Anti-Money Laundering and Counter-Terrorism Financing Act 2006

42 Section 5 (paragraph (s) of the definition of *designated agency*)

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

43 Application of amendments

The amendment of the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* made by this Part applies in relation to giving access to, or disclosing, information on or after the commencement of this item, whether the information was acquired before, on or after that commencement.

Crimes Act 1914

44 Subsection 3ZQU(7) (paragraph (d) of the definition of *State or Territory law enforcement agency*)

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

45 Section 3ZZAC (paragraph (d) of the definition of *State or Territory law enforcement agency*)

Repeal the paragraph, substitute:

- (d) the Law Enforcement Conduct Commission constituted by the *Law Enforcement Conduct Commission Act 2016* (NSW);
- or

46 Section 20BZ (subparagraph (c)(iv) of the definition of *relevant person*)

Repeal the subparagraph, substitute:

- (iv) the *Law Enforcement Conduct Commission Act 2016* (NSW);

47 Application of amendments

- (1) The amendment of section 3ZQU of the *Crimes Act 1914* made by this Part applies, on or after the commencement of this item, in relation to:
 - (a) a thing seized before, on or after that commencement; or
 - (b) an original or copy of a document produced before, on or after that commencement.
- (2) The amendment of section 3ZZAC of the *Crimes Act 1914* made by this Part applies, on or after the commencement of this item, in relation to a thing seized before, on or after that commencement.
- (3) The amendment of section 20BZ of the *Crimes Act 1914* made by this Part applies in relation to giving or disclosing, on or after the commencement of this item, information acquired before, on or after that commencement.

Criminal Code Act 1995

48 Section 473.1 of the *Criminal Code* (paragraph (i) of the definition of *law enforcement officer*)

Repeal the paragraph, substitute:

- (i) any of the following:
 - (i) the Chief Commissioner of the Law Enforcement Conduct Commission of New South Wales;
 - (ii) the Commissioner for Integrity of the Commission;
 - (iii) an Assistant Commissioner of the Commission;
 - (iv) a member of staff of the Commission (within the meaning of the *Law Enforcement Conduct Commission Act 2016* (NSW));

Privacy Act 1988

49 Subsection 6(1) (paragraph (k) of the definition of *enforcement body*)

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

50 Application of amendments

The amendment of the *Privacy Act 1988* made by this Part applies in relation to disclosing, giving access to or using information on or after the commencement of this item, whether the information was acquired before, on or after that commencement.

Radiocommunications Act 1992

51 Paragraph 27(1)(bd)

Repeal the paragraph, substitute:

(bd) the Law Enforcement Conduct Commission of New South Wales; or

Taxation Administration Act 1953

52 Paragraph 355-70(4)(h) in Schedule 1

Omit “Police Integrity Commission”, substitute “Law Enforcement Conduct Commission”.

53 Application of amendments

The amendment of the *Taxation Administration Act 1953* made by this Part applies in relation to making a record of, or disclosing, information on or after the commencement of this item, whether the information was acquired before, on or after that commencement.

Part 5—General transitional provisions

54 Things done by, or in relation to, the old Commission

- (1) For the purposes of a law of the Commonwealth, anything done by, or in relation to, a person mentioned in column 1 of an item of the following table before the commencement of this item has effect at and after that commencement as if it had been done by, or in relation to, a person mentioned in column 2 of that item of the table.

| Things done by, or in relation to, the old Commission | | |
|--|---|---|
| Item | Column 1 Old Commission | Column 2 New Commission |
| 1 | The old Commission | The new Commission |
| 2 | The Commissioner of the old Commission | The Chief Commissioner of the new Commission |
| 3 | An Assistant Commissioner of the old Commission | the Commissioner for Integrity of the new Commission |
| 4 | A member of the staff of the Commission (within the meaning of the <i>Police Integrity Commission Act 1996</i> (NSW)) | An Assistant Commissioner or member of staff of the Commission (within the meaning of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW)) |
| 5 | The Inspector of the old Commission | The Inspector of the new Commission |
| 6 | A member of the staff of the Inspector (within the meaning of the <i>Police Integrity Commission Act 1996</i> (NSW)) | An Assistant Inspector or member of staff of the Inspector (within the meaning of the <i>Law Enforcement Conduct Commission Act 2016</i> (NSW)) |

- (2) To avoid doubt, a report that is required to be prepared or given under a law of the Commonwealth on or after the commencement of this item about a thing done by, or in relation to, a person mentioned in column 2 of an item of the table must, to the extent (if any) the period occurs before that commencement, cover such a thing done by, or in relation to, a person mentioned in column 1 of that item of the table.

- (3) Division 2 of Part 2, Division 2 of Part 3 and Part 6 of this Schedule do not limit subitem (1).

55 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to:
- (a) the amendments or repeals made by this Schedule; or
 - (b) the abolition of the old Commission (so far as it is relevant to an Act amended by this Schedule); or
 - (c) the establishment of the new Commission (so far as it is relevant to an Act amended by this Schedule).
- (2) To avoid doubt, the rules may not do the following:
- (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) directly amend the text of this Act.

Part 6—Transfer of information

56 Information acquired under the *Telecommunications (Interception and Access) Act 1979*

- (1) This item applies to information that:
 - (a) was acquired by the old Commission before, on or after the commencement of this item; and
 - (b) is information of the following kind:
 - (i) lawfully intercepted information;
 - (ii) interception warrant information;
 - (iii) lawfully accessed information;
 - (iv) preservation notice information;
 - (v) stored communications warrant information;
 - (vi) information or documents voluntarily disclosed to the old Commission in accordance with section 177 of the *Telecommunications (Interception and Access) Act 1979*;
 - (vii) information or documents disclosed under an authorisation made under Division 3 or 4 of Part 4-1 of that Act.
- (2) Nothing in the *Telecommunications (Interception and Access) Act 1979* prevents the Commissioner of the old Commission from communicating that information to the new Commission on or after that commencement.

57 Information acquired under the *Surveillance Devices Act 2004*

- (1) This item applies to information that:
 - (a) was acquired by the old Commission before, on or after the commencement of this item; and
 - (b) is protected information.
- (2) Nothing in the *Surveillance Devices Act 2004* prevents the Commissioner of the old Commission from communicating that information to the new Commission on or after that commencement.

58 Things shared under the *Crimes Act 1914*

- (1) Subitem (2) applies if before, on or after the commencement of this item, a thing or an original or copy of a document was made available to the old Commission under subsection 3ZQU(5) of the *Crimes Act 1914*.
- (2) The old Commission may, on or after that commencement, make the thing, original or copy available to the new Commission, to be used by the new Commission for a purpose mentioned in that subsection.

Things seized under delayed notification search warrants

- (3) Subitem (4) applies if before, on or after the commencement of this item, a thing was made available to the old Commission under subsection 3ZZEA(5) of the *Crimes Act 1914*.
- (4) The old Commission may, on or after that commencement, make the thing available to the new Commission, to be used by the new Commission for a purpose mentioned in that subsection.

Schedule 2—Independent Broad-based Anti-corruption Commission of Victoria

Australian Postal Corporation Act 1989

1 After paragraph 90J(6)(b)

Insert:

- (ba) the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic.); or

2 After paragraph 90LC(5)(b)

Insert:

- (ba) the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic.); or

3 Application of amendments

The amendments of the *Australian Postal Corporation Act 1989* made by this Schedule apply in relation to disclosing information or a document on or after the commencement of this item, whether the information or document was acquired or received before, on or after that commencement.

Criminal Code Act 1995

4 Section 473.1 of the *Criminal Code* (after paragraph (i) of the definition of *law enforcement officer*)

Insert:

- (ia) an IBAC Officer within the meaning of the *Independent Broad-based Anti-corruption Commission Act 2011* (Vic.);

Surveillance Devices Act 2004

5 Subsection 6A(7) (after table item 20)

Insert:

- | | | | | |
|----|--|---|---|--|
| 22 | Independent Broad-based Anti-corruption Commission of Victoria | the Commissioner of the Commission | an IBAC Officer (within the meaning of the <i>Independent Broad-based Anti-corruption Commission Act 2011</i> (Vic.)) | (a) the Commissioner; or (b) a Deputy Commissioner of the Commission; or (c) the Chief Executive Officer of the Commission; or (d) an executive level sworn IBAC Officer (within the meaning of that Act) the chief officer authorises under subsection (5) |
|----|--|---|---|--|

6 After paragraph 6A(8)(a)

Insert:

- (aa) if the State is Victoria—an executive (within the meaning of the *Public Administration Act 2004* (Vic.)); or

Schedule 3—Unlawful acquisitions

Proceeds of Crime Act 2002

1 At the end of section 336A

Add:

; and (c) other property (*discharging property*) (if any) used in wholly or partly discharging a security on, or a liability incurred to acquire or retain:

- (i) the property or wealth; or
- (ii) the consideration given for the property or wealth; or
- (iii) property (if any) that is discharging property because of one or more previous applications of this paragraph; was lawfully acquired.

Note: In paragraph (c), an example of a security is a mortgage, charge or lien and an example of a liability is a debt under a loan contract or a liability to pay rent under a lease.

2 Application of amendments

The amendments made by this Schedule apply in relation to property or wealth acquired before, on or after the commencement of this Schedule.

[*Minister's second reading speech made in—
House of Representatives on 19 October 2016
Senate on 23 November 2016*]

(159/16)
