

2019

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

INTEGRITY COMMISSION AMENDMENT BILL 2019

EXPLANATORY STATEMENT

**Presented by
Andrew Barr MLA
Chief Minister**

INTEGRITY COMMISSION AMENDMENT BILL 2019

Introduction

This Explanatory Statement is for the Integrity Commission Amendment Bill 2019 as presented in the ACT Legislative Assembly. It has been prepared in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.

The Statement must be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. What is said about a provision is not to be taken as an authoritative guide to the meaning of a provision, this being a task for the courts.

Background

In October 2017, the ACT Legislative Assembly Select Committee on an Independent Integrity Commission released its report recommending the Government establish a standing ACT Anti-Corruption and Integrity Commission to investigate, expose and prevent corruption and foster public confidence in the integrity of the ACT Government. In March 2018, the Government agreed to establish an ACT Integrity Body to investigate corruption in public administration and strengthen public confidence in government integrity. The [Government Response](#) to the Select Committee's Report on an Inquiry into an Independent Integrity Commission, including the Government position on the Select Committee's 79 recommendations was released.

The ACT Government released its Integrity Commission Bill on 26 July 2018 as an Exposure Draft. The Exposure Draft and supporting material was referred to the Select Committee on an Independent Integrity Commission 2018. The Select Committee received public submissions and held public hearings in September 2018.

On 31 October 2018, the Select Committee released its [report](#) with 57 recommendations, including that the Government table a bill based on the Integrity Commission Bill 2018 Exposure Draft and incorporate amendments as recommended by the Select Committee.

On 16 November 2018, the Government released its [response](#) to the 2018 Select Committee, amended Integrity Commission Bill 2018 and associated Explanatory Statement.

In line with its commitment, the Government introduced legislation in the Legislative Assembly in November 2018. The Bill was tabled, debated and passed during the November 2018 sitting.

The [Integrity Commission Act 2018](#) was notified on 11 December 2018 and scheduled to commence 1 July 2019. The ACT Legislative Assembly set the commencement date by amendment to the Government Bill.

The Government had intended for the Act to commence by written notice of the Minister. The Government had also intended on providing for a split commencement of the Act to facilitate the commencement of the enabling provisions, while delaying the commencement of complaints until the Integrity Commissioner was ready to receive them.

The Speaker of the ACT Legislative Assembly, acting on behalf of the Territory, is responsible for appointing an Integrity Commissioner. The Speaker must consult with the Legislative Assembly on the person's appointment and the Legislative Assembly must approve the appointment, by resolution passed by a majority of at least 2/3rd of the members.

The Speaker commenced a recruitment process for the Integrity Commissioner with the establishment of an independent panel, led by the Assembly's Independent Standards Commissioner, Dr Ken Crispin QC. The recommendation proposed by the Panel in April 2019 did not receive the required approvals for appointment.

Overview of the Bill

The purpose of this Bill is to amend the commencement of the *Integrity Commission Act 2018* to provide split commencement dates in order to facilitate the commencement of the enabling provisions, while delaying the commencement of powers to receive complaints until the Integrity Commissioner is ready to receive them. This Bill also amends the specific date of review of the Act to align with the amendments to the commencement date, and makes some minor corrections to cross-referencing errors in the Act.

Human Rights Implications

This Bill has no identified human rights implications.

Climate Change Impacts

This Bill has no measurable climate change impacts.

Gender Impacts

This Bill has no gender impacts.

CLAUSE NOTES

Clause 1 Name of Act

This clause is a formal provision setting out the name of the new Act as the *Integrity Commission Amendment Act 2019*.

Clause 2 Commencement

This clause provides details on the commencement of this Bill. Section 3 and section 4 commence on the day after it is notified. Section 5 and section 6 commence on the commencement of section 50 of the Integrity Commission Act. Section 7 commences on the commencement of section 303 of the Integrity Commission Act.

Clause 3 Legislation amended

This clause provides that the Act amends the *Integrity Commission Act 2018*.

Clause 4 Commencement Section 2

Section 2 of the Integrity Commission Act provides that the Act commence on 1 July 2019. This clause amends section 2 of the Integrity Commission Act to provide that specified provisions of the Act will commence on 1 July 2019, with all other provisions to commence two months after the Commissioner's term of appointment commences. This amendment allows for a commissioner to be appointed and to participate with the establishment of the Integrity Commission and the appointment and engagement of commission staff prior to the commencement of provisions that allow for complaints to be made and matters to be investigated. The specified provisions that will commence on 1 July 2019 are:

- a. Chapter 1: Preliminary;
- b. Chapter 2: Integrity Commission;
- c. Chapter 5: Inspector of the Commission;
- d. Chapter 9: Consequential amendments:
 - i. Part 1.1: Annual Reports (Government Agencies) Act 2004;
 - ii. Part 1.10: Freedom of Information Act 2018;
 - iii. Part 1.12: Government Procurement Act 2001;
 - iv. Part 1.13: Information Privacy Act 2014;
 - v. Part 1.15: Legislation Act 2001; and
 - vi. Part 1.20: Remuneration Tribunal Act 1995.
- e. Dictionary.

Clause 5 Staff of the commission —eligibility for appointment
Section 50 (3) (b), note

The note in section 50(3)(b) of the Integrity Commission Act makes reference to personal interest guidelines in section 3. This reference should be to section 4. This clause amends the incorrect cross-reference.

Clause 6 Section 50 (4)

Section 50(4) of the Integrity Commission Act provides that ‘The commission must make guidelines (the personal interest guidelines) about the personal interests the commission considers relevant to declare under subsection (2)(b)’. This reference should be to subsection 3(b). This clause amends the incorrect cross-reference.

Clause 7 Review of Act
Section 303 (1)

Section 303 of the Integrity Commission Act requires the Minister, in consultation with the Speaker, to arrange for the review of the operation of the Act as soon as practicable after 1 July 2022 and every 5 years after 1 July 2022. The Legislative Assembly agreed to a review of the Integrity Commission Act three years after it commencement and then every 5 years after that first review. As a result of the amendments to the commencement section in clause 4 of this Bill, this clause is amended to remove the specific dates, while still providing for the review to occur three years after the commencement of the section (two months after the Commissioner’s commences) and every 5 years after the first review of the Act.