TABLE OF PROVISIONS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>PART 1—PRELIMINARY</td>
<td>1</td>
</tr>
<tr>
<td>1 Purpose of Act</td>
<td>1</td>
</tr>
<tr>
<td>2 Commencement</td>
<td>2</td>
</tr>
<tr>
<td>PART 2—AMENDMENT OF THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011</td>
<td>3</td>
</tr>
<tr>
<td>Division 1—Amendment of Parts 1 and 2</td>
<td>3</td>
</tr>
<tr>
<td>3 Amendment of section 3—Definitions</td>
<td>3</td>
</tr>
<tr>
<td>4 New sections 3A to 3C inserted</td>
<td>13</td>
</tr>
<tr>
<td>3A Corrupt conduct</td>
<td>13</td>
</tr>
<tr>
<td>3B Meaning of police personnel conduct, police personnel conduct complaint and police personnel misconduct</td>
<td>14</td>
</tr>
<tr>
<td>3C Definitions of public body, public officer and public sector</td>
<td>16</td>
</tr>
<tr>
<td>5 Section 4 substituted—Objects of Act</td>
<td>21</td>
</tr>
<tr>
<td>4 Objects of Act</td>
<td>21</td>
</tr>
<tr>
<td>6 Section 9 substituted—Functions of the IBAC</td>
<td>22</td>
</tr>
<tr>
<td>9 Functions of the IBAC</td>
<td>22</td>
</tr>
<tr>
<td>7 Amendment of section 11—Delegation</td>
<td>24</td>
</tr>
<tr>
<td>8 Section 26 substituted—Delegation</td>
<td>25</td>
</tr>
<tr>
<td>26 Delegation</td>
<td>25</td>
</tr>
<tr>
<td>Division 2—Parts 3 and 4 substituted</td>
<td>27</td>
</tr>
<tr>
<td>9 Parts 3 and 4 substituted</td>
<td>27</td>
</tr>
<tr>
<td>PART 3—INVESTIGATIONS</td>
<td>27</td>
</tr>
<tr>
<td>Division 1—Complaints to the IBAC</td>
<td>27</td>
</tr>
<tr>
<td>34 Complaints to the IBAC about corrupt conduct</td>
<td>27</td>
</tr>
<tr>
<td>35 Police personnel conduct complaints to the IBAC</td>
<td>27</td>
</tr>
<tr>
<td>36 Complaint to be in writing</td>
<td>27</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>37</td>
<td>Complaint from detained person 27</td>
</tr>
<tr>
<td>38</td>
<td>Withdrawal of complaint 28</td>
</tr>
<tr>
<td><strong>Division 2—Information and notifications to the IBAC</strong></td>
<td><strong>29</strong></td>
</tr>
<tr>
<td>39</td>
<td>The IBAC may receive information 29</td>
</tr>
<tr>
<td>40</td>
<td>Notifications to the IBAC 29</td>
</tr>
<tr>
<td><strong>Division 3—Carrying out investigations</strong></td>
<td><strong>31</strong></td>
</tr>
<tr>
<td>41</td>
<td>Conducting investigations about corrupt conduct 31</td>
</tr>
<tr>
<td>42</td>
<td>Conducting investigations about conduct of judicial officers 31</td>
</tr>
<tr>
<td>43</td>
<td>Findings about judicial officers not to be included in special or annual reports 32</td>
</tr>
<tr>
<td>44</td>
<td>The IBAC must dismiss certain complaints or notifications to the IBAC 32</td>
</tr>
<tr>
<td>45</td>
<td>Conducting investigations about police personnel conduct 32</td>
</tr>
<tr>
<td>46</td>
<td>Conduct of Chief Commissioner of Police, Deputy Commissioner of Police or Assistant Commissioner of Police 33</td>
</tr>
<tr>
<td>47</td>
<td>Complaints or notifications to the IBAC that do not warrant investigation 34</td>
</tr>
<tr>
<td>48</td>
<td>Discontinuance of investigation 36</td>
</tr>
<tr>
<td>49</td>
<td>Investigation when other proceedings on foot 36</td>
</tr>
<tr>
<td><strong>PART 4—INVESTIGATIVE POWERS</strong></td>
<td><strong>37</strong></td>
</tr>
<tr>
<td><strong>Division 1—Authorised officers</strong></td>
<td><strong>37</strong></td>
</tr>
<tr>
<td>50</td>
<td>Appointment of authorised officers 37</td>
</tr>
<tr>
<td>51</td>
<td>Identity cards 37</td>
</tr>
<tr>
<td>52</td>
<td>Production of identity card 38</td>
</tr>
<tr>
<td><strong>Division 2—Additional powers—conduct of police</strong></td>
<td><strong>38</strong></td>
</tr>
<tr>
<td>53</td>
<td>Power to require police to give information and documents and answer questions 38</td>
</tr>
<tr>
<td><strong>Division 3—Entry, search and seizure—police personnel premises</strong></td>
<td><strong>40</strong></td>
</tr>
<tr>
<td>54</td>
<td>The IBAC must authorise use of powers under this Division 40</td>
</tr>
<tr>
<td>55</td>
<td>Power to enter police personnel premises 40</td>
</tr>
<tr>
<td>56</td>
<td>Power to seize documents or things at police personnel premises 41</td>
</tr>
<tr>
<td>57</td>
<td>Copies of, access to or receipt for documents or other things seized 42</td>
</tr>
<tr>
<td>58</td>
<td>Application for return of things seized 44</td>
</tr>
<tr>
<td>59</td>
<td>Return of things seized from police personnel premises 45</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>Division 4—Search warrant powers</td>
<td>46</td>
</tr>
<tr>
<td>60</td>
<td>Search warrant</td>
</tr>
<tr>
<td>61</td>
<td>Procedure for executing search warrant</td>
</tr>
<tr>
<td>62</td>
<td>Copies or receipts to be given for documents or other things</td>
</tr>
<tr>
<td>63</td>
<td>Return of documents and other things</td>
</tr>
<tr>
<td>64</td>
<td>Assistance in executing search warrants</td>
</tr>
<tr>
<td>65</td>
<td>Police must provide reasonable assistance</td>
</tr>
<tr>
<td>66</td>
<td>Privilege claims in relation to search warrants</td>
</tr>
<tr>
<td>Division 5—Privilege</td>
<td>53</td>
</tr>
<tr>
<td>67</td>
<td>Certain privileges abrogated in relation to police personnel</td>
</tr>
<tr>
<td>68</td>
<td>Application to Supreme Court to determine privilege</td>
</tr>
<tr>
<td>69</td>
<td>Determination of privilege claims</td>
</tr>
<tr>
<td>PART 5—DEFENSIVE EQUIPMENT AND FIREARMS</td>
<td>56</td>
</tr>
<tr>
<td>70</td>
<td>Authorisation to possess, carry and use defensive equipment for investigating police personnel conduct by members of the police force</td>
</tr>
<tr>
<td>71</td>
<td>Authorisation to possess, carry and use defensive equipment for investigating possible corrupt conduct</td>
</tr>
<tr>
<td>72</td>
<td>Authorisation to possess, carry and use defensive equipment for training purposes</td>
</tr>
<tr>
<td>73</td>
<td>Authorisation to acquire, store and maintain defensive equipment</td>
</tr>
<tr>
<td>74</td>
<td>Authorisation to possess, carry and use firearms for investigating police personnel conduct by members of the police force</td>
</tr>
<tr>
<td>75</td>
<td>Authorisation to possess, carry and use firearms for investigating possible corrupt conduct</td>
</tr>
<tr>
<td>76</td>
<td>Authorisation to possess, carry and use firearms for training purposes</td>
</tr>
<tr>
<td>77</td>
<td>Authorisation to acquire, dispose of, store and maintain firearms</td>
</tr>
<tr>
<td>78</td>
<td>Senior IBAC Officer must not contravene conditions of authorisation</td>
</tr>
<tr>
<td>79</td>
<td>The IBAC to notify Chief Commissioner of Police of acquisition or disposal of firearms</td>
</tr>
<tr>
<td>80</td>
<td>Storage of firearms</td>
</tr>
<tr>
<td>81</td>
<td>Storage of cartridge ammunition</td>
</tr>
<tr>
<td>82</td>
<td>Requirement to notify Chief Commissioner of Police of loss, theft or destruction</td>
</tr>
<tr>
<td>Section</td>
<td>Page</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td><strong>PART 6—RECOMMENDATIONS, ACTIONS AND REPORTS</strong></td>
<td>66</td>
</tr>
<tr>
<td>83</td>
<td>Recommendations</td>
</tr>
<tr>
<td>84</td>
<td>The IBAC may request the Chief Commissioner of Police to take certain actions</td>
</tr>
<tr>
<td>85</td>
<td>Actions by Chief Commissioner of Police</td>
</tr>
<tr>
<td>86</td>
<td>Special reports</td>
</tr>
<tr>
<td>87</td>
<td>Advice to a complainant and other persons</td>
</tr>
<tr>
<td>88</td>
<td>Outcome of investigation</td>
</tr>
<tr>
<td>89</td>
<td>Matters to be included in annual report</td>
</tr>
<tr>
<td><strong>PART 7—GENERAL</strong></td>
<td>76</td>
</tr>
<tr>
<td><strong>Division 1—Alcohol and drug testing of IBAC Officers</strong></td>
<td>76</td>
</tr>
<tr>
<td>90</td>
<td>Application of Division</td>
</tr>
<tr>
<td>91</td>
<td>Alcohol and drug testing of IBAC Officers</td>
</tr>
<tr>
<td>92</td>
<td>The IBAC may have regard to evidence in certain circumstances</td>
</tr>
<tr>
<td>93</td>
<td>Taking a sample when an IBAC Officer is unconscious or otherwise unable to comply with direction</td>
</tr>
<tr>
<td>94</td>
<td>Admissibility of test result in certain proceedings</td>
</tr>
<tr>
<td>95</td>
<td>Handling and confidentiality of test results</td>
</tr>
<tr>
<td>96</td>
<td>Offence to disclose identifying information</td>
</tr>
<tr>
<td>97</td>
<td>No action against registered medical practitioner or approved health professional</td>
</tr>
<tr>
<td><strong>Division 2—Offences and Proceedings</strong></td>
<td>81</td>
</tr>
<tr>
<td>98</td>
<td>Offence to impersonate IBAC Officer</td>
</tr>
<tr>
<td>99</td>
<td>Offence to hinder or obstruct an IBAC Officer</td>
</tr>
<tr>
<td>100</td>
<td>Compliance with direction or requirement</td>
</tr>
<tr>
<td>101</td>
<td>Statement which is false or misleading</td>
</tr>
<tr>
<td>102</td>
<td>Offences by corporations</td>
</tr>
<tr>
<td>103</td>
<td>Maximum fine for body corporate</td>
</tr>
<tr>
<td>104</td>
<td>Responsible agency for the Crown</td>
</tr>
<tr>
<td>105</td>
<td>Proceedings against successors to public bodies</td>
</tr>
<tr>
<td>106</td>
<td>Power to bring proceedings</td>
</tr>
<tr>
<td>107</td>
<td>Service of document</td>
</tr>
<tr>
<td>108</td>
<td>Validity and effect of notices, orders and other documents and deemed service</td>
</tr>
<tr>
<td><strong>Division 3—Miscellaneous</strong></td>
<td>86</td>
</tr>
<tr>
<td>109</td>
<td>Exemption from <em>Freedom of Information Act 1982</em></td>
</tr>
<tr>
<td>110</td>
<td>Regulations</td>
</tr>
<tr>
<td>111</td>
<td>Regulations—specific matters</td>
</tr>
</tbody>
</table>
PART 3—AMENDMENTS TO OTHER ACTS AND REPEAL  91

10 Amendment of section 12A of the Parliamentary Committees Act 2003 91
11 Amendment of Police Regulation Act 1958 92
13 Amendment of Surveillance Devices Act 1999 94
14 Amendment of sections 1 and 3 of the Telecommunications (Interception) (State Provisions) Act 1988 96

PART 2B—FUNCTIONS OF THE IBAC  98

9F Documents connected with issue of warrants to be kept 98
9G Other records to be kept in connection with interceptions 98
9H Keeping and destruction of restricted records 100

16 Repeal of Police Integrity Act 2008 101
17 Repeal of amending Act 101

ENDNOTES  102
Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012†
No. 13 of 2012

[Assented to 20 March 2012]

The Parliament of Victoria enacts:

PART 1—PRELIMINARY

1 Purpose of Act

The purpose of this Act is to—

(a) amend the Independent Broad-based Anti-corruption Commission Act 2011 to provide the IBAC with the duties, functions and powers to enable the IBAC to—
Part 1—Preliminary

(i) identify, expose and investigate serious corrupt conduct;
(ii) identify, expose and investigate police personnel misconduct;
(iii) assess police personnel conduct;
(iv) prevent corrupt conduct and police personnel misconduct;

(b) consequentially amend the Parliamentary Committees Act 2003, the Police Regulation Act 1958, the Surveillance Devices Act 1999 and the Telecommunications (Interception) (State Provisions) Act 1988;

(c) repeal the Police Integrity Act 2008.

2 Commencement

This Act comes into operation on a day or days to be proclaimed.
PART 2—AMENDMENT OF THE INDEPENDENT BROAD-BASED ANTI-CORRUPTION COMMISSION ACT 2011

Division 1—Amendment of Parts 1 and 2

3 Amendment of section 3—Definitions

(1) Insert the following definitions into section 3 of the Independent Broad-based Anti-corruption Commission Act 2011—

"aircraft" means a machine or structure used or intended to be used for navigation of the air;

approved health professional means—

(a) a person registered under the Health Practitioner Regulation National Law—

(i) to practise in the nursing and midwifery profession as a nurse (other than as a midwife or as a student); and

(ii) in the registered nurses division of that profession;

(b) a person approved under subsection (2) to take a blood sample for the purposes of Division 1 of Part 7;

authorised officer means a sworn IBAC Officer appointed as an authorised officer under section 50;

breach of discipline, in relation to a member of the police force, means a breach of discipline committed under section 69 of the Police Regulation Act 1958;

category A longarm has the same meaning as it has in section 3(1) of the Firearms Act 1996;
category B longarm has the same meaning as it has in section 3(1) of the Firearms Act 1996;

category C longarm has the same meaning as it has in section 3(1) of the Firearms Act 1996;

category D longarm has the same meaning as it has in section 3(1) of the Firearms Act 1996;

Chief Commissioner of Police means the Chief Commissioner of Police appointed under Part I of the Police Regulation Act 1958;

corrupt conduct has the meaning given by section 3A;

Council has the same meaning as it has in section 3(1) of the Local Government Act 1989;

critical incident means an incident involving an IBAC Officer, other than the Commissioner, while the IBAC Officer was performing a function or exercising a power under this Act which—

(a) resulted in the death of, or serious injury to, a person; and

(b) also involved any one or more of the following—

(i) the discharge of a firearm by the IBAC Officer;

(ii) the use of force by the IBAC Officer;

(iii) the use of a motor vehicle by the IBAC Officer (including as a passenger) in the course of performing the IBAC Officer's
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

...duties or exercising the IBAC Officer's powers;

(iv) the death of, or serious injury to, the person while the person was in the custody of the IBAC Officer;

defensive equipment means one or more of the following—

(a) an article designed or adapted to discharge oleoresin capsicum spray;

(b) body armour within the meaning of the Control of Weapons Act 1990;

(c) an extendable baton designed or adapted so that the length of the baton extends by gravity or centrifugal force or by any pressure applied to a button, spring or device in or attached to the handle of the baton;

(d) handcuffs or cable ties;

detained person means—

(a) a person in prison in the legal custody of the Secretary to the Department of Justice in accordance with the Corrections Act 1986; or

(b) a person in a police gaol in the legal custody of the Chief Commissioner of Police in accordance with the Corrections Act 1986; or

(c) a person in a remand centre, youth justice centre or youth residential centre in the legal custody of the Department of Human Services in accordance with the Children, Youth and Families Act 2005;
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

(d) a patient in an approved mental health service within the meaning of the Mental Health Act 1986; or

(e) a patient in a residential service, residential institution or residential treatment facility within the meaning of the Disability Act 2006; or

(f) a person detained at a treatment centre under a detention and treatment order made under section 20 of the Severe Substance Dependence Treatment Act 2010;

drug of dependence has the same meaning as it has in the Drugs, Poisons and Controlled Substances Act 1981;

firearm has the same meaning as it has in section 3(1) of the Firearms Act 1996;

general category handgun has the same meaning as it has in section 3(1) of the Firearms Act 1996;

judicial officer means—

(a) a Judge of the Supreme Court;

(b) an Associate Judge of the Supreme Court;

(c) a judicial registrar of the Supreme Court;

(d) a judge of the County Court;

(e) an associate judge of the County Court;

(f) a magistrate;
notification to the IBAC means—
   (a) in relation to corrupt conduct, a notification under section 40(1);
   (b) in relation to police personnel conduct, a notification under section 40(2), (4) or (6);

person includes an unincorporated association, a firm and a partnership;

person in charge, for the purposes of Division 1 of Part 3, means the person who is in charge of the place or institution where the person who wishes to make a complaint is a detained person;

police force means—
   (a) the Chief Commissioner of Police;
   (b) a Deputy Commissioner of Police or an Assistant Commissioner of Police appointed under Part I of the Police Regulation Act 1958;
   (c) other members of the force within the meaning of section 3(1) of the Police Regulation Act 1958;
   (d) police reservists appointed under Part VI of the Police Regulation Act 1958;
   (e) protective services officers appointed under Part VIA of the Police Regulation Act 1958;

police gaol has the same meaning as it has in the Corrections Act 1986;
police personnel means—

(a) a member of the police force;

(b) an executive or employee employed under Part 3 of the Public Administration Act 2004 in the office of the Chief Commissioner of Police;

(c) a police recruit appointed under section 8A of the Police Regulation Act 1958;

police personnel conduct has the meaning given by section 3B;

police personnel conduct complaint has the meaning given by section 3B;

police personnel misconduct has the meaning given by section 3B;

police personnel premises means any premises, or the part of any premises, occupied by police personnel for the purposes of use as an office, a police station, a police gaol, a locker room, a command and control centre, an educational and training complex, a forensic laboratory, a storage facility or a special purpose facility, whether or not occupied by any other person or body, but does not include any residential premises;

prescribed means prescribed by regulations made under this Act;

prison has the same meaning as it has in the Corrections Act 1986;

prison officer has the same meaning as it has in the Corrections Act 1986;

prisoner has the same meaning as it has in the Corrections Act 1986;
privilege means—

(a) any privilege that a person is entitled to claim in any proceedings before a court or tribunal; and

(b) public interest immunity;

public body has the meaning given by section 3C;

Public Interest Monitor has the same meaning as it has in section 4 of the Public Interest Monitor Act 2011;

public officer has the meaning given by section 3C;

public sector has the meaning given by section 3C;

registered medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

relevant head of jurisdiction means—

(a) in relation to the Supreme Court, a Judge of the Supreme Court, an Associate Judge of the Supreme Court or a judicial registrar of the Supreme Court—

(i) the Chief Justice; or

(ii) if the Chief Justice is the person whose conduct is being investigated, the President of the Court of Appeal; or

(b) in relation to the County Court, a judge of the County Court or an associate judge of the County Court—

(i) the Chief Judge of the County Court; or
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012
No. 13 of 2012

s. 3

(ii) if the Chief Judge is the person whose conduct is being investigated, the next most senior judge of the County Court;

(c) in relation to the Magistrates' Court or a magistrate—

(i) the Chief Magistrate; or

(ii) if the Chief Magistrate is the person whose conduct is being investigated, the most senior Deputy Chief Magistrate;

relevant offence means—

(a) an indictable offence against an Act; or

(b) any of the following common law offences committed in Victoria—

(i) attempt to pervert the course of justice;

(ii) bribery of a public official;

(iii) perverting the course of justice;

relevant principal officer means—

(a) the public sector body Head within the meaning of section 4(1) of the Public Administration Act 2004, in relation to—

(i) the public body of which he or she is the public sector body Head; and

(ii) the public officers employed by that public body;

(b) the Chief Commissioner of Police, in relation to members of police personnel;
(c) the Chief Executive Officer of a Council, in relation to members of Council staff employed by that Council;

**search warrant** means a warrant issued under section 60;

**senior IBAC Officer** means a sworn IBAC Officer who is the holder of a prescribed office or position or is the holder of an office or position of a prescribed class of offices or positions;

**serious injury** includes an injury that—

(a) is life threatening; or

(b) is likely to result in permanent impairment; or

(c) is likely to require long-term rehabilitation; or

(d) is, in the opinion of the IBAC, of such nature, or occurred in such circumstances, that the infliction of it is likely to bring the IBAC into disrepute or diminish public confidence in it;

**sworn IBAC Officer** means an IBAC Officer who has taken an oath or made an affirmation under this Act;

**vehicle** has the same meaning as it has in the **Road Safety Act 1986**;

**vessel** has the same meaning as it has in the **Marine Act 1988**;

**Victorian Inspectorate** has the same meaning as it has in section 3 of the **Victorian Inspectorate Act 2011**;". 
(2) In section 3 of the Independent Broad-based Anti-corruption Commission Act 2011 for the definition of *IBAC Officer* substitute—

"IBAC Officer" means—

(a) the Commissioner;
(b) a Deputy Commissioner;
(c) the Chief Executive Officer appointed under section 27;
(d) a person employed under section 29(1);
(e) a person employed or engaged by the IBAC under section 29(2);
(f) a person engaged as a consultant under section 30;".

(3) At the end of section 3 of the Independent Broad-based Anti-corruption Commission Act 2011 insert—

"(2) For the purposes of paragraph (b) of the definition of *approved health professional*, the Director within the meaning of the Victorian Institute of Forensic Medicine Act 1985, in writing, may approve a person to take blood samples for the purposes of Division 1 of Part 7 if the Director is of the opinion that the person has the appropriate qualifications, training and experience to take those samples.

(3) A reference in this Act to the investigative functions of the IBAC—

(a) in respect of corrupt conduct, is a reference to the functions specified in section 9(2)(a) and (3)(a);
(b) in respect of police personnel conduct, is a reference to the functions specified in section 9(2)(b), (2)(c) and (3)(b).".
4 New sections 3A to 3C inserted

After section 3 of the Independent Broad-based Anti-corruption Commission Act 2011 insert—

"3A Corrupt conduct

(1) For the purposes of this Act, corrupt conduct means conduct—

(a) of any person that adversely affects the honest performance by a public officer or public body of his or her or its functions as a public officer or public body; or

(b) of a public officer or public body that constitutes or involves the dishonest performance of his or her or its functions as a public officer or public body; or

(c) of a public officer or public body that constitutes or involves knowingly or recklessly breaching public trust; or

(d) of a public officer or a public body that involves the misuse of information or material acquired in the course of the performance of his or her or its functions as a public officer or public body, whether or not for the benefit of the public officer or public body or any other person; or

(e) that could constitute a conspiracy or an attempt to engage in any conduct referred to in paragraph (a), (b), (c) or (d)—

being conduct that would, if the facts were found proved beyond reasonable doubt at a trial, constitute a relevant offence.
(2) This Act does not apply to any conduct of any person that can be considered by the Court of Disputed Returns in proceedings in relation to a petition under Part 8 of the Electoral Act 2002.

3B Meaning of police personnel conduct, police personnel conduct complaint and police personnel misconduct

For the purposes of this Act—

police personnel conduct, in relation to a public officer who is a member of the police force, means—

(a) an act or decision or the failure or refusal by the member of the police force to act or make a decision in the exercise, performance or discharge, or purported exercise, performance or discharge, whether within or outside Victoria, of a power, function or duty which the member of the police force has as or, by virtue of being, a member of the police force; or

(b) conduct which constitutes an offence punishable by imprisonment; or

(c) conduct which is likely to bring the police force into disrepute or diminish public confidence in it; or

(d) disgraceful or improper conduct (whether in the member of the police force's official capacity or otherwise);
**police personnel conduct**, in relation to a public officer who is a member of police personnel other than a member of the police force, means—

(a) an act or decision or the failure or refusal by the member of police personnel to act or make a decision in the exercise, performance or discharge, or purported exercise, performance or discharge, whether within or outside Victoria, of a power, function or duty which the member of police personnel has as or, by virtue of being, a member of police personnel; or

(b) conduct which is likely to bring police personnel into disrepute or diminish public confidence in police personnel;

**police personnel conduct complaint** means—

(a) a complaint made to the IBAC under section 86L of the Police Regulation Act 1958 in relation to the conduct of a member of the police force; or

(b) a complaint made to the IBAC in relation to the police personnel conduct of a member of police personnel other than a member of the police force;

**police personnel misconduct**, in relation to a public officer who is a member of the police force, means—
(a) conduct which constitutes an offence punishable by imprisonment; or

(b) conduct which is likely to bring the police force into disrepute or diminish public confidence in it; or

(c) disgraceful or improper conduct (whether in the member of the police force's official capacity or otherwise);

**police personnel misconduct**, in relation to a public officer who is a member of police personnel other than a member of the police force, means conduct which is likely to bring police personnel into disrepute or diminish public confidence in police personnel.

3C Definitions of public body, public officer and public sector

(1) For the purposes of this Act—

**public body** means, subject to this section—

(a) a public sector body within the meaning of section 4(1) of the Public Administration Act 2004;

(b) a body, whether corporate or unincorporated, established by or under an Act for a public purpose, including a university;

(c) the Electoral Boundaries Commission constituted under the Electoral Boundaries Commission Act 1982;

(d) a Council;
(e) a body that is performing a public function on behalf of the State or a public body or public officer (whether under contract or otherwise);

(f) any other body or entity prescribed for the purposes of this definition;

public officer means, subject to this section—

(a) a person employed in any capacity or holding any office in the public sector within the meaning of section 4(1) of the Public Administration Act 2004;

(b) a person to whom a provision of the Public Administration Act 2004 applies as a result of the application of Part 7 of that Act;

(c) an ongoing employee or temporary employee in the teaching service under the Education and Training Reform Act 2006;

(d) a judicial employee employed under Division 3 of Part 6 of the Public Administration Act 2004;

(e) a Ministerial officer employed under Division 1 of Part 6 of the Public Administration Act 2004;

(f) an electorate officer within the meaning of the Parliamentary Administration Act 2005;
(g) a Parliamentary adviser employed under Division 2 of Part 6 of the Public Administration Act 2004;

(h) a Parliamentary officer within the meaning of the Parliamentary Administration Act 2005;

(i) a member of police personnel;

(j) a responsible Minister of the Crown;

(k) a member of the Legislative Assembly or the Legislative Council;

(l) a Councillor within the meaning of section 3(1) of the Local Government Act 1989;

(m) a member of Council staff employed under the Local Government Act 1989;

(n) a judge, a magistrate, a coroner or a member of VCAT;

(o) an associate judge or a judicial registrar;

(p) a Crown Prosecutor;

(q) the Chief Crown Prosecutor;

(r) the Director of Public Prosecutions;

(s) the Governor, the Lieutenant-Governor or the Administrator of the State;

(t) the Auditor-General;

(u) the Ombudsman;

(v) the Electoral Commissioner;
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Independent Broad-based Anti-corruption Commission Amendment
(Investigative Functions) Act 2012
No. 13 of 2012

(w) the holder of any other statutory office or any other prerogative office;

(x) any other person in the service of the Crown or a public body;

(y) a person that is performing a public function on behalf of the State or a public officer or public body (whether under contract or otherwise);

(z) a person who holds, or a person who is a member of a class of persons who hold, an office prescribed to be a public office for the purposes of this definition;

(za) an employee of, or any person otherwise engaged by, or acting on behalf of, or acting as a deputy or delegate of, a public body or a public officer;

**public sector** means the sector comprising all public bodies and public officers.

(2) The following are not a **public body** or a **public officer** for the purposes of this Act—

(a) the IBAC;

(b) an IBAC Officer;

(c) a Public Interest Monitor;

(d) the Office of the Special Investigations Monitor;

(e) the Special Investigations Monitor appointed under section 5 of the **Major Crime (Special Investigations Monitor) Act 2004**;
(f) the Victorian Inspectorate;

(g) a Victorian Inspectorate Officer within the meaning of section 3 of the **Victorian Inspectorate Act 2011**;

(h) a court.

(3) In determining if a function is a public function the factors that may be taken into account include—

(a) that the function is conferred on the body or person by or under a statutory provision;

(b) that the function is of a regulatory nature;

(c) that the body that performs the function is a company (within the meaning of the Corporations Act) all of the shares in which are held by or on behalf of the State.

(4) To avoid doubt—

(a) the factors listed in subsection (3) are not exhaustive of the factors that may be taken into account in determining if a function is a public function; and

(b) the fact that one or more of the factors set out in subsection (3) are present in relation to a function does not necessarily result in the function being a public function.

(5) The fact that a body or person receives public funds does not of itself make that body or person a public body or public officer for the purposes of this Act.".
5 Section 4 substituted—Objects of Act

For section 4 of the Independent Broad-based Anti-corruption Commission Act 2011 substitute—

"4 Objects of Act

The objects of this Act are to—

(a) provide for the identification, investigation and exposure of—
   (i) serious corrupt conduct; and
   (ii) police personnel misconduct;

(b) assist in the prevention of—
   (i) corrupt conduct; and
   (ii) police personnel misconduct;

(c) facilitate the education of the public sector and the community about the detrimental effects of corrupt conduct and police personnel misconduct on public administration and the community and the ways in which corrupt conduct and police personnel misconduct can be prevented;

(d) assist in improving the capacity of the public sector to prevent corrupt conduct and police personnel misconduct;

(e) provide for the IBAC to assess police personnel conduct.".
6 Section 9 substituted—Functions of the IBAC

For section 9 of the Independent Broad-based Anti-corruption Commission Act 2011 substitute—

"9 Functions of the IBAC

(1) The IBAC has the functions conferred on the IBAC under this Act or any other Act.

(2) The IBAC has the following functions—

(a) to identify, expose and investigate serious corrupt conduct;

(b) to identify, expose and investigate police personnel misconduct;

(c) to assess police personnel conduct.

(3) Without limiting the generality of subsection (2), the IBAC has the following functions under subsection (2)—

(a) to receive complaints and notifications to the IBAC in relation to corrupt conduct;

(b) in relation to police personnel conduct—

(i) to receive police personnel conduct complaints and notifications to the IBAC;

(ii) to ensure that the highest ethical and professional standards are maintained by members of the police force;

(iii) to ensure that members of the police force have regard to the human rights set out in the Charter of Human Rights and Responsibilities Act 2006."
(4) The IBAC has education and prevention functions for the purpose of achieving the objects of this Act.

(5) Without limiting the generality of subsection (4), the IBAC has the following functions under subsection (4)—

(a) to examine systems and practices in the public sector and public sector legislation;

(b) to provide information to, consult with and make recommendations to, the public sector;

(c) to assist the public sector to increase capacity to prevent corrupt conduct and police personnel misconduct by providing advice, training and education services;

(d) to provide information and education services to the community about the detrimental effects of corruption on public administration and ways in which to assist in preventing corrupt conduct;

(e) to provide information and education services to members of police personnel and the community about police personnel conduct, including the detrimental effects of police personnel misconduct and ways in which to assist in preventing police personnel misconduct;

(f) to publish information on ways to prevent corrupt conduct and police personnel misconduct.
(6) For the purpose of achieving the objects of this Act, the IBAC has the following functions—

(a) to receive information, conduct research and collect intelligence, and to use that information, research and intelligence in support of investigations;

(b) to report on, and make recommendations as a result of, the performance of its duties and functions.”.

7 Amendment of section 11—Delegation

For section 11(1) of the Independent Broad-based Anti-corruption Commission Act 2011 substitute—

"(1) The IBAC, by instrument, may delegate to the Commissioner any duty, function or power of the IBAC under this Act or any other Act other than this power of delegation.

(1A) The IBAC, by instrument, may delegate to a Deputy Commissioner any duty, function or power of the IBAC under this Act or any other Act other than—

(a) a duty, function or power under section 86, 89 or 106;

(b) this power of delegation.".
8 Section 26 substituted—Delegation

For section 26 of the Independent Broad-based Anti-corruption Commission Act 2011 substitute—

"26 Delegation

(1) The Commissioner, by instrument, may delegate to a Deputy Commissioner or the Chief Executive Officer any duty, function or power of the Commissioner under this Act or any other Act other than, subject to subsections (5) and (6)—

(a) a duty, function or power under section 54, 60, 86, 89 or 106;

(b) the power of authorisation under section 106;

(c) this power of delegation.

(2) The Commissioner, by instrument, may delegate to a senior IBAC Officer who is not the holder of an office specified in subsection (1) any duty, function or power of the Commissioner under this Act or any other Act other than—

(a) a duty, function or power under section 50, 53, 54, 60, 86, 89 or 106;

(b) the power of authorisation under section 106;

(c) this power of delegation.

(3) A Deputy Commissioner, by instrument, may delegate to the Chief Executive Officer or a senior IBAC Officer any duty, function or power of the Deputy Commissioner under this Act or any other Act other than this power of delegation.
(4) The Chief Executive Officer, by instrument, may delegate to a senior IBAC Officer any duty, function or power of the Chief Executive Officer under this Act or any other Act other than this power of delegation.

(5) Despite subsection (1), if the Commissioner has made a declaration of inability to act in respect of a particular matter under section 23, the Commissioner, by instrument, may delegate to a sworn IBAC Officer who would be qualified to be appointed under section 14 to be the Commissioner any duty, function or power of the Commissioner under this Act or any other Act which the Commissioner considers is necessary to enable that sworn IBAC Officer to act in respect of that particular matter.

(6) Despite subsection (1), if a sworn IBAC Officer to whom section 42(1) applies is conducting an investigation referred to in section 42, the Commissioner, by instrument, may delegate to that sworn IBAC Officer any duty, function or power of the Commissioner under this Act or any other Act which the Commissioner considers is necessary to enable that sworn IBAC Officer to act in respect of that particular investigation.

(7) A delegation under this section to a former judge of the Supreme Court or the County Court or a former Chief Magistrate does not affect any pension or other rights or privileges that the person has as a former judge or Chief Magistrate."
Division 2—Parts 3 and 4 substituted

9 Parts 3 and 4 substituted

For Parts 3 and 4 of the Independent Broad-based Anti-corruption Commission Act 2011 substitute—

"PART 3—INVESTIGATIONS

Division 1—Complaints to the IBAC

34 Complaints to the IBAC about corrupt conduct

A person may make a complaint to the IBAC about conduct the person believes may be corrupt conduct.

35 Police personnel conduct complaints to the IBAC

A person may make a police personnel conduct complaint to the IBAC.

36 Complaint to be in writing

A complaint to the IBAC must be made in writing unless the IBAC determines that there are exceptional circumstances for a complaint to be made otherwise than in writing.

37 Complaint from detained person

(1) If a detained person informs the person in charge that he or she wishes to make a complaint, the person in charge must—

(a) take all steps to facilitate the making of the complaint; and

(b) subject to subsection (3), immediately forward, unopened, to the IBAC any letter addressed to the IBAC by the detained person.
(2) Subject to subsection (3), if a letter from the IBAC is addressed to the detained person, the person in charge must ensure that it is immediately forwarded, unopened, to the detained person.

(3) If a letter referred to in subsection (1)(b) or (2) is suspected by the person in charge to contain drugs, weapons or other contraband, the letter may be opened by the person in charge, or his or her delegate, in the presence of—

(a) in the case of a letter addressed to the IBAC, the person who wrote the letter and an IBAC Officer; or

(b) in the case of a letter from the IBAC to the detained person, the person to whom the letter is addressed and an IBAC Officer.

(4) Subject to subsection (3), a person, including a person in charge, must not prevent or hinder the forwarding, unopened, of a letter—

(a) addressed to the IBAC from a detained person; or

(b) to a detained person from the IBAC.

Penalty: 120 penalty units or imprisonment for 12 months or both.

38 Withdrawal of complaint

(1) A person who makes a complaint may withdraw the complaint at any time after making it.

(2) If a complaint is withdrawn, the IBAC may continue to investigate the matter that is the subject of the complaint.
(3) If a complaint is withdrawn and the IBAC continues to investigate the matter that is the subject of the complaint the investigation is taken to be an investigation conducted by the IBAC on its own motion.

Division 2—Information and notifications to the IBAC

39 The IBAC may receive information

(1) The IBAC may receive from any body or person information relevant to the carrying out of the IBAC's investigative functions or the IBAC's functions under section 9(6)(a).

(2) The IBAC may receive information under subsection (1) even if that information does not form part of, or is not related to, a complaint.

(3) The IBAC may use information received under this section in carrying out its investigative functions.

40 Notifications to the IBAC

(1) The relevant principal officer may notify the IBAC of any matter that the person believes on reasonable grounds constitutes corrupt conduct.

(2) The Chief Commissioner of Police must notify the IBAC of any complaint received by the Chief Commissioner of Police about corrupt conduct or police personnel misconduct by a member of police personnel who is not a member of the police force.

(3) If the Chief Commissioner of Police investigates a complaint about police personnel misconduct by a member of police personnel who is not a member of the police force, after completing that investigation, the
Chief Commissioner of Police must in writing report to the IBAC on—
(a) the results of the investigation; and
(b) the action (if any) taken or proposed to be taken.

Note
Under sections 86M and 86O of the Police Regulation Act 1958, the Chief Commissioner of Police must provide the IBAC with certain details relating to complaints about police personnel misconduct by a member of the police force.

(4) The Chief Commissioner of Police must notify the IBAC of any complaint made to a member of the police force under section 86L of the Police Regulation Act 1958 about conduct of—
(a) the Chief Commissioner of Police; or
(b) a Deputy Commissioner of Police; or
(c) an Assistant Commissioner of Police.

(5) A notification under subsection (2) or (4) must be made as soon as practicable after the Chief Commissioner of Police receives the complaint.

(6) The Chief Commissioner of Police may notify the IBAC about police personnel conduct of a member of police personnel.

(7) This section has effect despite any duty of secrecy or other restriction on disclosure.
Division 3—Carrying out investigations

41 Conducting investigations about corrupt conduct

(1) Subject to subsection (2), the IBAC may conduct an investigation in accordance with its corrupt conduct investigative functions—

(a) on a complaint made to it under section 34; or

(b) on a notification to it under section 40(1); or

(c) on its own motion.

(2) The IBAC must not conduct an investigation under subsection (1) unless it is reasonably satisfied that the conduct is serious corrupt conduct.

42 Conducting investigations about conduct of judicial officers

(1) An investigation by the IBAC in accordance with its corrupt conduct investigative functions into the conduct of a judicial officer must be conducted by a sworn IBAC Officer who is—

(a) a former judge or former magistrate—

(i) of a court of a higher level than the person whose conduct is being investigated; or

(ii) of the same level but not of the same court as the person whose conduct is being investigated; and

(b) not an Australian legal practitioner.
(2) In performing its corrupt conduct investigative functions in relation to a judicial officer, the IBAC—

(a) must have proper regard for the preservation of the independence of judicial officers; and

(b) must notify, and may consult, the relevant head of jurisdiction unless doing so would prejudice an IBAC investigation.

43 Findings about judicial officers not to be included in special or annual reports

The IBAC must not include any finding of corrupt conduct of a judicial officer or any other adverse finding in relation to a judicial officer arising from an investigation in—

(a) a special report under section 86; or

(b) an annual report under section 89.

44 The IBAC must dismiss certain complaints or notifications to the IBAC

The IBAC must dismiss a complaint or a notification to the IBAC about the conduct of a judicial officer if the complaint or notification directly relates to the merits of a decision, an order or a judgment made by the judicial officer.

45 Conducting investigations about police personnel conduct

(1) The IBAC may conduct an investigation in accordance with its police personnel conduct investigative functions—

(a) on a police personnel conduct complaint made to it under section 35;
(b) on a notification to the IBAC under section 40(2), (4) or (6) or information provided under section 86M of the Police Regulation Act 1958;

(c) on its own motion.

(2) The IBAC may attempt to resolve a police personnel conduct complaint under section 35 in relation to police personnel conduct by conciliation.

(3) The IBAC must notify the Chief Commissioner of Police of the proposal to attempt conciliation under subsection (2) before commencing a conciliation.

(4) The IBAC must notify the Chief Commissioner of Police of the results of the attempted conciliation under subsection (2).

(5) The IBAC may conduct an investigation under subsection (1) in relation to police personnel conduct of, or in relation to, a person who was a member of police personnel at the time of the conduct even if that person is no longer a member of police personnel.

46 Conduct of Chief Commissioner of Police, Deputy Commissioner of Police or Assistant Commissioner of Police

(1) Subject to subsection (2), the IBAC must investigate a complaint or a notification to the IBAC or a complaint under section 86L of the Police Regulation Act 1958 in accordance with this Act if that complaint or notification is of conduct of—

(a) the Chief Commissioner of Police; or

(b) a Deputy Commissioner of Police; or

(c) an Assistant Commissioner of Police.
(2) The IBAC may determine that a complaint or a notification referred to in subsection (1) does not warrant investigation if it considers on reasonable grounds that any of the following criteria apply—

(a) the subject matter of the complaint or notification is trivial or unrelated to the functions of the IBAC; or

(b) the complaint or notification is frivolous or vexatious; or

(c) the complaint or notification lacks substance or credibility; or

(d) the matter has already been the subject of a complaint or notification which has been investigated or otherwise dealt with; or

(e) the complaint or notification relates to conduct that occurred at too remote a time to justify investigation; or

(f) the complaint or notification was not made genuinely or was made primarily for a mischievous purpose; or

(g) in all of the circumstances, the conduct does not warrant investigation.

(3) The IBAC may notify a person who made a complaint or notification referred to in subsection (1) of the IBAC’s determination that the complaint or notification does not warrant investigation.

47 Complaints or notifications to the IBAC that do not warrant investigation

(1) Subject to sections 41(2), 44 and 46, the IBAC, in its absolute discretion, may determine that a complaint or a notification to the IBAC does not warrant investigation.
(2) Without limiting subsection (1), the IBAC may determine under that subsection that a complaint or a notification to the IBAC does not warrant investigation if, in the opinion of the IBAC—

(a) the subject matter of the complaint or notification is trivial or unrelated to the functions of the IBAC; or

(b) the complaint or notification is frivolous or vexatious; or

(c) the complaint or notification lacks substance or credibility; or

(d) the matter has already been the subject of a complaint or notification which has been investigated or otherwise dealt with; or

(e) the complaint or notification relates to conduct that occurred at too remote a time to justify investigation; or

(f) the complaint or notification was not made genuinely or was made primarily for a mischievous purpose; or

(g) in all of the circumstances, the conduct does not warrant investigation.

(3) If a person who makes a complaint, other than a complaint referred to in section 46, has delayed making the complaint by more than a year after becoming aware of the conduct which is the subject of the complaint, the IBAC—

(a) may require the person to give an explanation for the delay; and

(b) if not satisfied with the explanation, in its absolute discretion, may decide not to investigate the complaint.
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

No. 13 of 2012

(4) The IBAC may notify a person who made a complaint or notification referred to in subsection (1) of—

(a) its determination under subsection (1) that the complaint or notification does not warrant investigation; or

(b) its decision under subsection (3) not to investigate the complaint.

48 Discontinuance of investigation

The IBAC may discontinue an investigation at any time.

49 Investigation when other proceedings on foot

(1) The IBAC may commence or continue to investigate a matter despite the fact that any proceedings (whether civil or criminal) are on foot, or are commenced, in any court or tribunal that relate to, or are otherwise connected with, the subject matter of the investigation.

(2) If the IBAC is or becomes aware that such proceedings are on foot, or have been commenced, the IBAC must take all reasonable steps to ensure that the conduct of the investigation does not prejudice those proceedings.
PART 4—INVESTIGATIVE POWERS

Division 1—Authorised officers

50 Appointment of authorised officers

(1) Subject to subsection (2), the IBAC, by instrument, may appoint a sworn IBAC Officer to be an authorised officer for the purposes of this Act.

(2) The IBAC must not appoint a sworn IBAC Officer to be an authorised officer unless the IBAC is satisfied that the sworn IBAC Officer is suitably qualified or trained to perform the functions and exercise the powers of an authorised officer for the purposes of this Act.

(3) An appointment of a sworn IBAC Officer as an authorised officer—

(a) may, generally or in a particular case, specify the functions, duties or powers under this Act or the regulations in respect of which that person is an authorised officer; and

(b) may be made subject to any conditions that the IBAC considers appropriate.

51 Identity cards

(1) The IBAC must issue an identity card to each authorised officer.

(2) An identity card issued to an authorised officer must—

(a) contain a photograph of the authorised officer; and

(b) contain the signature of the authorised officer; and

(c) be signed by the Commissioner.
52 Production of identity card

(1) An authorised officer must produce his or her identity card for inspection before exercising a power under Division 3 or 4 of this Part unless it is not practicable to do so.

(2) An authorised officer must produce his or her identity card for inspection if requested to do so by any person at the premises during the exercise of a power under Division 3 or 4 of this Part unless to do so would endanger safety or frustrate an investigation.

(3) If an authorised officer does not comply with a request under subsection (2), the authorised officer must immediately cease exercising the power under Division 3 or 4 of this Part unless the reason for not complying is that to comply would endanger safety or frustrate an investigation.

(4) An authorised officer exercising a power under Division 2 of this Part must produce his or her identity card for inspection if requested to do so by the person subject to the exercise of that power unless it is not practicable to do so.

Division 2—Additional powers—conduct of police

53 Power to require police to give information and documents and answer questions

(1) This section applies to the investigation by the IBAC in respect of a possible breach of discipline involving—

(a) corrupt conduct of a member of the police force; or
(b) police personnel conduct of a member of the police force.

(2) For the purposes of an investigation to which this section applies, the IBAC may direct any member of the police force to—

(a) give the IBAC any relevant information; or

(b) produce any relevant document to the IBAC; or

(c) answer any relevant question.

Note

Failure to comply with a direction of the IBAC under this section is a breach of discipline. See section 69(1)(ac) of the Police Regulation Act 1958.

(3) Any information, document or answer given or produced in accordance with a direction under subsection (2) is not admissible in evidence before any court or person acting judicially, except in proceedings for—

(a) perjury or giving false information; or

(b) a breach of discipline by a member of the police force; or

(c) an offence under this Act concerning failure to comply with a direction of the IBAC; or

(d) review proceedings under Division 1 of Part IV of the Police Regulation Act 1958.
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Division 3—Entry, search and seizure—police personnel premises

54 The IBAC must authorise use of powers under this Division

A power under this Division must not be exercised by an authorised officer without express written authority from the Commissioner.

Note

The Commissioner cannot delegate this power unless section 26(5) or (6) applies. See section 26.

55 Power to enter police personnel premises

(1) If an authorised officer reasonably believes there are documents or other things that are relevant to an investigation which are on police personnel premises, the authorised officer may—

(a) enter those premises at any time; and

(b) enter any vehicle, vessel or aircraft on those premises; and

(c) search those premises or any vehicle, vessel or aircraft on those premises for documents or other things that are relevant to an investigation; and

(d) inspect or copy any document or other thing found at those premises or in any vehicle, vessel or aircraft on those premises; and

(e) do anything that it is necessary or convenient to do to enable a search and an inspection to be carried out under this section.
(2) On exercising a power of entry under this section, the authorised officer must—

(a) identify himself or herself to a person at the police personnel premises who is apparently in charge of those premises; and

(b) inform the person apparently in charge that the authorised officer is authorised to enter the police personnel premises or any vehicle, vessel or aircraft on those premises.

(3) The Chief Commissioner of Police must ensure that each member of police personnel at police personnel premises gives the authorised officer any assistance the authorised officer reasonably requires to enable the authorised officer to exercise powers under this section.

(4) For the avoidance of doubt, an authorised officer does not have authority under this section to enter any part of police personnel premises that is used for residential purposes.

56 Power to seize documents or things at police personnel premises

(1) An authorised officer who exercises a power of entry under section 55 may seize a document or other thing at the police personnel premises or in any vehicle, vessel or aircraft on those premises if the authorised officer reasonably suspects that—

(a) the document or other thing is relevant to an investigation; and
(b) if the document or other thing is not immediately seized—
   (i) it may be concealed or destroyed;
   or
   (ii) its forensic value may be diminished.

(2) The Chief Commissioner of Police must ensure that each member of police personnel at police personnel premises makes available to the authorised officer any facilities or equipment that are reasonably necessary for the authorised officer to seize a document or other thing under this section.

57 Copies of, access to or receipt for documents or other things seized

(1) If an authorised officer seizes under section 56—
   (a) a document, disk or tape or other thing that can be readily copied; or
   (b) a storage device the information in which can be readily copied—

   the authorised officer, on request by a person at the police personnel premises, must give a copy of the document, thing or information to the person as soon as practicable after the seizure.

(2) An authorised officer may refuse a request under subsection (1) if the authorised officer has consulted the IBAC and—
   (a) the IBAC is satisfied that the work involved in copying the document, thing or information would substantially and unreasonably interfere with the performance of the IBAC's functions; or
(b) the IBAC considers that it is in the public interest to do so.

(3) An authorised officer must not refuse a request under subsection (1) unless the authorised officer has—

(a) given the person who made the request a written notice stating an intention to refuse the request; and

(b) given the person a reasonable opportunity to make a further request for a copy of the document, thing or information in a form that would remove the ground for refusal; and

(c) as far as is reasonably practicable, provided the person with any information that would assist the making of the further request for access in such a form.

(4) An authorised officer is not required to provide any information under subsection (3)(c) if the IBAC considers that it is not in the public interest for the document, thing or information to be provided.

(5) If an authorised officer refuses a request under subsection (1)—

(a) the authorised officer must provide a receipt for the document, thing or information seized; and

(b) on request by the Chief Commissioner of Police, the IBAC must permit the Chief Commissioner of Police to have access to the document, thing or information seized unless the IBAC is of the opinion that it is not in the public interest for the Chief Commissioner of Police to have access.
(6) The IBAC must not refuse a request for access under subsection (5)(b), unless the IBAC has—

(a) given the Chief Commissioner of Police a written notice stating an intention to refuse to give access; and

(b) given the Chief Commissioner of Police a reasonable opportunity to make a further request for access in a form that would remove the ground for refusal; and

(c) as far as is reasonably practicable, provided the Chief Commissioner of Police with any information that would assist the making of the further request for access in such a form.

(7) The IBAC is not required to provide any information under subsection (6)(c) if the IBAC is of the opinion that it is not in the public interest for the information to be provided.

(8) For the avoidance of doubt, an authorised officer or the IBAC is not required to give reasons for refusing a request under this section.

58 Application for return of things seized

(1) Within 7 days after a document or other thing is seized by an authorised officer under section 56, an interested person may apply to the Supreme Court for an order—

(a) setting aside the seizure; and

(b) requiring the IBAC to deliver the document or other thing to the interested person.
(2) On an application under subsection (1), the Supreme Court may make an order setting aside the seizure and requiring the IBAC to deliver the document or other thing to the interested person if the Court is satisfied that the grounds for the seizure—

(a) did not exist; or

(b) no longer exist.

(3) In this section, interested person in relation to a document or other thing means—

(a) the Chief Commissioner of Police; or

(b) a person authorised by the Chief Commissioner of Police to apply under this section on behalf of the Chief Commissioner of Police; or

(c) any other person who claims to have a legal or equitable interest in the document or other thing.

59 Return of things seized from police personnel premises

(1) The IBAC must take all reasonable steps to return a document or other thing seized under section 56 to the Chief Commissioner of Police if the document or other thing is required as evidence relating to a legal proceeding.

(2) The IBAC must immediately take all reasonable steps to return a document or other thing seized under section 56 to the Chief Commissioner of Police if the IBAC is no longer satisfied that its retention is necessary for the purposes of—

(a) an investigation; or
(b) a report on an investigation; or
(c) a legal proceeding arising out of, or connected with, an investigation.

(3) This section is subject to any order of the Supreme Court under section 58.

Division 4—Search warrant powers

60 Search warrant

(1) Subject to subsection (2), an authorised officer may apply to a Judge of the Supreme Court for a search warrant in relation to either or both of the following—

(a) particular premises, if the authorised officer believes on reasonable grounds that entry to the premises (including any vehicle, vessel or aircraft on or in those premises) is necessary for the purpose of an investigation;

(b) a particular vehicle, vessel or aircraft located in a public place if the authorised officer believes on reasonable grounds that entry to the vehicle, vessel or aircraft is necessary for the purpose of an investigation.

(2) An application must not be made without the written authorisation, in the prescribed form, of the Commissioner.

Note
The Commissioner cannot delegate this power unless section 26(5) or (6) applies. See section 26.

(3) If a Judge of the Supreme Court is satisfied by evidence on oath, whether oral or by affidavit, that there are reasonable grounds for the belief under subsection (1)(a) or (b), the Judge may issue a search warrant
authorising any person named in the warrant—

(a) to enter and search the premises or vehicle, vessel or aircraft named or described in the search warrant and inspect any document or thing at those premises or on or in that vehicle, vessel or aircraft; and

(b) to make a copy of any document relevant, or that the person reasonably considers may be relevant, to the investigation; and

(c) to take possession of any document or other thing that the person considers relevant to the investigation.

(4) A search warrant issued under this section must state—

(a) the purpose for which the search is required; and

(b) any conditions to which the search warrant is subject; and

(c) whether entry is authorised to be made at any time of the day or night or during stated hours of the day or night; and

(d) a day, not later than 28 days after the issue of the search warrant, on which the search warrant ceases to have effect.

(5) A search warrant must be in the prescribed form.

(6) Except as otherwise provided by this Act, the rules to be observed with respect to search warrants under the *Magistrates' Court Act 1989* extend and apply to warrants under this section.
(7) If a search warrant is issued in relation to court premises, the IBAC must notify, and may consult, the head or heads of jurisdiction about the issuing of the search warrant, unless to do so would prejudice the investigation.

61 Procedure for executing search warrant

(1) On executing a search warrant, the person executing it—

(a) must announce that he or she is authorised by the search warrant to enter the premises, vehicle, vessel or aircraft, as the case requires, unless, in the case of a vehicle, vessel or aircraft it is in a public place; and

(b) if the person has been unable to obtain unforced entry, must give any person at the premises or in control of the vehicle, vessel or aircraft an opportunity to allow entry to the premises, vehicle, vessel or aircraft, as the case requires.

(2) A person executing a search warrant need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises, vehicle vessel or aircraft is required to ensure—

(a) the safety of any person; or

(b) that the effective execution of the search warrant is not frustrated.

(3) If the occupier is present at premises where a search warrant is being executed, the person executing the warrant must—

(a) identify himself or herself to the occupier; and
(b) give the occupier a copy of the search warrant.

(4) If the occupier is not present at premises where a search warrant is being executed, the person executing the warrant must—

(a) identify himself or herself to a person at the premises who is apparently over the age of 18 years; and

(b) give that person a copy of the warrant.

(5) If there is no person apparently over the age of 18 years present at premises where a search warrant is being executed, the person executing the warrant must leave a copy of the warrant in a conspicuous place at the premises unless the IBAC has given a direction under subsection (6).

(6) The IBAC may direct that a copy of a search warrant not be left at premises where no person apparently over the age of 18 years is present if the IBAC is satisfied that it would be contrary to the public interest for the copy to be left at the premises.

62 Copies or receipts to be given for documents or other things

(1) If under a search warrant a person takes possession of—

(a) a document, disk or tape or other thing that can be readily copied; or

(b) a storage device the information in which can be readily copied—

the person, on request by the occupier, must give a copy of the document, thing or information to the occupier as soon as practicable after taking possession of it,
unless it would be contrary to the public interest to do so.

(2) If a person takes possession of a document or thing under a search warrant and has not provided a copy of the document, thing or information under subsection (1) the person must provide a receipt in the prescribed form for that document or thing as soon as practicable after taking possession of it.

63 Return of documents and other things

(1) The IBAC must take all reasonable steps to return a document or other thing seized under a search warrant to the person from whom it was seized if the document or other thing is required as evidence relating to a legal proceeding.

(2) The IBAC must immediately take all reasonable steps to return a document or other thing seized under a search warrant to the person from whom it was seized if the IBAC is no longer satisfied that its retention is necessary for the purposes of—

(a) an investigation; or

(b) a report on an investigation; or

(c) a legal proceeding arising out of, or connected with, an investigation.

64 Assistance in executing search warrants

(1) A person executing a search warrant may—

(a) seek the assistance of another person (an assistant) over the age of 18 years who possesses specialised skills or technical knowledge necessary for exercising a power authorised by the search warrant; or
(b) take onto the premises any equipment, vehicle, animal or material that the person reasonably requires for exercising a power authorised by the search warrant.

(2) The person may authorise the assistant—

(a) to take stated action at the premises, vehicle, vessel or aircraft; and

(b) to exercise stated powers the person is authorised by the search warrant to exercise.

(3) For the purposes of subsection (2), the person—

(a) is only permitted to authorise the assistant to take stated action or exercise stated powers that are consistent with the specialist skills or technical knowledge of the assistant; and

(b) cannot authorise the assistant to arrest a person.

(4) The person must inform the assistant of—

(a) action the assistant is authorised to take; and

(b) the assistant's powers under this section.

(5) Without limiting subsection (1), the IBAC may seek assistance from the Chief Commissioner of Police when executing a search warrant.

(6) Subsection (1) applies, in relation to animals, despite any other Act or law, other than the Charter of Human Rights and Responsibilities Act 2006.
65 Police must provide reasonable assistance

The Chief Commissioner of Police must ensure that members of the police force give a person executing a search warrant any assistance that the person reasonably requires to enable that person, or an assistant authorised under section 64, to exercise the powers authorised by the search warrant.

66 Privilege claims in relation to search warrants

(1) This section applies if—

(a) a person executing a search warrant (the "searcher") wishes to inspect, copy or seize a document or other thing under the search warrant; and

(b) a person who is entitled to claim the privilege (the "claimant") claims that the document or other thing is the subject of privilege.

(2) The searcher must consider the claim of privilege and either—

(a) cease exercising the power under the search warrant in relation to the document or other thing over which the claim of privilege is made; or

(b) require the claimant to immediately seal the document or other thing in an envelope, or otherwise secure it if it cannot be sealed in an envelope, and give it to the searcher.

(3) The searcher must not inspect the document or other thing in considering the claim of privilege.
(4) If the searcher requires the claimant to give the document or other thing to the searcher under subsection (2)(b), the searcher must—

(a) notify the Commissioner as soon as practicable; and

(b) immediately give the document or other thing to the proper officer of the Supreme Court to be held in safe custody.

(5) Subject to section 69, a person must not open a sealed envelope or interfere with a document or thing secured otherwise than in an envelope before delivery to the proper officer of the Supreme Court.

Division 5—Privilege

67 Certain privileges abrogated in relation to police personnel

If the IBAC exercises a power under section 53 or an authorised officer exercises a power under section 55 or 56—

(a) the Crown is not entitled to assert any privilege in response to the exercise of those powers; and

(b) any privilege referred to in paragraph (a) is abrogated; and

(c) any obligation on a member of police personnel to maintain secrecy or other restriction upon the disclosure of information imposed by any enactment or any rule of law—

(i) is overridden; and
(ii) does not apply in respect of a direction of the IBAC under section 53 or the inspection, copying or seizure of any document or other thing by an authorised officer under section 55 or 56.

68 Application to Supreme Court to determine privilege

(1) Within 7 days after a sealed envelope or document or thing secured otherwise than in an envelope is given to the proper officer of the Supreme Court in accordance with section 66, the IBAC may apply to the Supreme Court to determine whether or not the document is the subject of privilege.

(2) If no application is made under subsection (1) within the period of 7 days, the proper officer must return the document to the claimant of privilege.

(3) The IBAC must give notice of the application to the claimant of privilege within a reasonable time before the hearing of the application.

(4) Notice under subsection (3) must be in the prescribed form.

(5) The claimant is entitled to appear and be heard on the hearing of the application.

69 Determination of privilege claims

(1) On an application under section 68, the Supreme Court must determine whether or not the document in the sealed envelope or the document or thing secured otherwise than in an envelope is the subject of privilege.
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Independent Broad-based Anti-corruption Commission Amendment
(Investigative Functions) Act 2012
No. 13 of 2012

(2) For the purpose of making a determination under subsection (1), the Judge constituting the Supreme Court and any other person authorised by the Court may—

(a) open the sealed envelope or access the document or thing secured otherwise than in an envelope; and

(b) inspect the document or thing.

(3) If the Supreme Court determines that the document or thing is the subject of privilege—

(a) the Court must order that the document or thing be returned to the claimant; and

(b) the proper officer must return the document or thing to the claimant.

(4) If the Court determines that the document or thing is not the subject of privilege—

(a) the Court must order that the document or thing be given to the IBAC; and

(b) the proper officer must release the document or thing accordingly.

(5) Subject to subsection (2), a person must not open a sealed envelope or otherwise have access to the document or thing contained in the sealed envelope before—

(a) the Court determines the claim of privilege; or

(b) the document or thing is returned to the claimant.

Penalty: 120 penalty units or imprisonment for 12 months or both.
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

No. 13 of 2012

Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012

(6) Subject to subsection (2), a person must not open or otherwise have access to a document or thing secured otherwise than in an envelope before—

(a) the Court determines the claim of privilege; or

(b) the document or thing is returned to the claimant.

Penalty: 120 penalty units or imprisonment for 12 months or both.

PART 5—DEFENSIVE EQUIPMENT AND FIREARMS

70 Authorisation to possess, carry and use defensive equipment for investigating police personnel conduct by members of the police force

(1) Subject to subsection (2), the IBAC, by instrument, may authorise a suitably trained senior IBAC Officer to possess, carry and use defensive equipment for the purposes of investigating police personnel conduct by any member of the police force.

(2) The IBAC must not give an authorisation under subsection (1) unless satisfied that the senior IBAC Officer reasonably requires the possession, carrying and use of defensive equipment—

(a) to perform functions and exercise powers of the IBAC or an authorised officer in relation to investigations; and
(b) to ensure the safety of the senior IBAC Officer in the performance of those functions or the exercise of those powers.

(3) For the purposes of subsection (1), a senior IBAC Officer is suitably trained if the IBAC is satisfied that the senior IBAC Officer has completed a prescribed course of training in the use of defensive equipment.

(4) An authorisation under this section—

(a) must specify the type of defensive equipment to which it relates; and

(b) may be subject to any conditions that the IBAC considers appropriate to impose.

(5) A senior IBAC Officer must not possess, carry or use defensive equipment in the course of an investigation of police personnel conduct by any member of the police force unless authorised to do so under this section.

Penalty: 60 penalty units or imprisonment for 6 months or both.

71 Authorisation to possess, carry and use defensive equipment for investigating possible corrupt conduct

(1) Subject to subsection (2), the IBAC, by instrument, may authorise a suitably trained senior IBAC Officer to possess, carry and use defensive equipment for the purposes of an investigation into possible corrupt conduct.
(2) The IBAC must not give an authorisation under subsection (1) unless satisfied that—

(a) requesting assistance from the Chief Commissioner of Police may compromise the investigation; and

(b) the senior IBAC Officer reasonably requires the possession, carrying and use of defensive equipment—

(i) to perform functions and exercise powers of the IBAC or an authorised officer in relation to an investigation; and

(ii) to ensure the safety of the senior IBAC Officer in the performance of IBAC functions or the exercise of IBAC powers.

(3) For the purposes of subsection (1), a senior IBAC Officer is suitably trained if the IBAC is satisfied that the senior IBAC Officer has completed a prescribed course of training in the use of defensive equipment.

(4) An authorisation under this section—

(a) must specify the type of defensive equipment to which it relates; and

(b) may be subject to any conditions that the IBAC considers appropriate to impose.

(5) A senior IBAC Officer must not possess, carry or use defensive equipment in the course of an investigation into possible corrupt conduct unless authorised to do so under this section.

Penalty: 60 penalty units or imprisonment for 6 months or both.
72 Authorisation to possess, carry and use defensive equipment for training purposes

(1) The IBAC, by instrument, may authorise a senior IBAC Officer to possess, carry and use defensive equipment for the purposes of—

(a) providing or receiving training in relation to the use of that equipment; or

(b) testing and maintaining that equipment.

(2) An authorisation under this section—

(a) must specify the type of defensive equipment to which it relates; and

(b) may be subject to any conditions that the IBAC considers appropriate to impose.

73 Authorisation to acquire, store and maintain defensive equipment

(1) The IBAC, by instrument, may authorise a senior IBAC Officer to possess, carry and use defensive equipment for the purposes of one or more of the following—

(a) the purchase or acquisition of that equipment;

(b) the maintenance of that equipment;

(c) the issue of that equipment;

(d) accepting the return of that equipment from a person authorised under this Part to possess, carry and use that equipment;

(e) storage of that equipment.
(2) An authorisation under this section must—
   (a) specify the type of defensive equipment to which it relates; and
   (b) may be subject to any conditions that the IBAC considers appropriate to impose.

(3) A senior IBAC Officer who is authorised under this section must ensure that any defensive equipment to which the authorisation relates is safely and securely stored when it is returned from the possession of a person authorised to possess, carry and use it under this Part.

74 Authorisation to possess, carry and use firearms for investigating police personnel conduct by members of the police force

(1) Subject to subsection (2), the IBAC, by instrument, may authorise a suitably trained senior IBAC Officer to possess, carry and use a firearm for the purposes of investigating police personnel conduct by any member of the police force.

(2) The IBAC must not give an authorisation under subsection (1) unless satisfied that the senior IBAC Officer reasonably requires the possession, carrying and use of a firearm—
   (a) to perform functions and exercise powers of the IBAC or an authorised officer in relation to investigations; and
   (b) to ensure the safety of the senior IBAC Officer in the performance of those functions or the exercise of those powers.
(3) For the purposes of subsection (1), a senior IBAC Officer is suitably trained if the IBAC is satisfied that the senior IBAC Officer has completed a prescribed course of training in the use of firearms.

(4) An authorisation under this section—
   (a) must specify the type of firearm to which it relates; and
   (b) may be subject to any conditions that the IBAC considers appropriate to impose.

(5) A senior IBAC Officer must not possess, carry or use a firearm in the course of an investigation of police personnel conduct by any member of the police force unless authorised to do so under this section.

Penalty: 60 penalty units or imprisonment for 6 months or both.

75 **Authorisation to possess, carry and use firearms for investigating possible corrupt conduct**

(1) Subject to subsection (2), the IBAC, by instrument, may authorise a suitably trained senior IBAC Officer to possess, carry and use a firearm for the purposes of an investigation into possible corrupt conduct.

(2) The IBAC must not give an authorisation under subsection (1) unless satisfied that—
   (a) requesting assistance from the Chief Commissioner of Police may compromise the investigation; and
   (b) the senior IBAC Officer reasonably requires the possession, carrying and use of a firearm—
(i) to perform functions and exercise powers of the IBAC or an authorised officer in relation to investigations; and

(ii) to ensure the safety of the senior IBAC Officer in the performance of IBAC functions or the exercise of IBAC powers.

(3) For the purposes of subsection (1), a senior IBAC Officer is suitably trained if the IBAC is satisfied that the senior IBAC Officer has completed a prescribed course of training in the use of firearms.

(4) An authorisation under this section—

(a) must specify the type of firearm to which it relates; and

(b) may be subject to any conditions that the IBAC considers appropriate to impose.

(5) A senior IBAC Officer must not possess, carry or use a firearm in the course of an investigation into possible corrupt conduct unless authorised to do so under this section.

Penalty: 60 penalty units or imprisonment for 6 months or both.

76 Authorisation to possess, carry and use firearms for training purposes

(1) The IBAC, by instrument, may authorise a senior IBAC Officer to possess, carry and use a firearm for the purposes of—

(a) providing or receiving training in relation to the use of that firearm; or

(b) testing and maintaining that firearm.
(2) An authorisation under this section—
   (a) must specify the type of firearm to which it relates; and
   (b) may be subject to any conditions that the IBAC considers appropriate to impose.

77 Authorisation to acquire, dispose of, store and maintain firearms

(1) The IBAC, by instrument, may authorise a senior IBAC Officer—
   (a) to acquire or dispose of a firearm on behalf of the IBAC; and
   (b) to possess and carry firearms for the purposes of—
      (i) acquiring or disposing of firearms; and
      (ii) maintaining firearms; and
      (iii) storing firearms.

(2) An authorisation under this section must—
   (a) specify the type of firearm to which it relates; and
   (b) may be subject to any conditions that the IBAC considers appropriate to impose.

(3) A firearm acquired under this section is taken to be acquired by the IBAC and must be registered under the Firearms Act 1996 in the name of the IBAC.
78 Senior IBAC Officer must not contravene conditions of authorisation

A senior IBAC Officer who is authorised under this Part to possess, carry or use defensive equipment or a firearm must not contravene any conditions to which the authorisation is subject.

Penalty: 60 penalty units or imprisonment for 6 months or both.

79 The IBAC to notify Chief Commissioner of Police of acquisition or disposal of firearms

(1) The IBAC must notify the Chief Commissioner of Police within 7 days of—

(a) the acquisition of a firearm; or

(b) the disposal of a firearm.

(2) The notification must—

(a) be in writing; and

(b) state the make, type, calibre, action and serial number of the firearm.

80 Storage of firearms

(1) The IBAC must ensure that a firearm acquired under an authorisation under this Part is stored—

(a) in the case of a category A or B longarm, in accordance with clause 1(1) and (2) of Schedule 4 to the Firearms Act 1996;

(b) in the case of a category C or D longarm or a general category handgun, in accordance with clause 2(1), (2) and (2A) of Schedule 4 to the Firearms Act 1996, as if the reference to the
holder of the licence were a reference to a senior IBAC Officer authorised under section 77.

(2) A senior IBAC Officer who is authorised under this Part to possess, carry or use a firearm, must ensure that the firearm is stored—

(a) in the case of a category A or B longarm, in accordance with clause 1(1) and (2) of Schedule 4 to the Firearms Act 1996;

(b) in the case of a category C or D longarm or a general category handgun, in accordance with clause 2(1), (2) and (2A) of Schedule 4 to the Firearms Act 1996, as if the reference to the holder of the licence were a reference to the senior IBAC Officer authorised under this Part.

81 Storage of cartridge ammunition

(1) The IBAC must ensure that any cartridge ammunition acquired in accordance with this Part is stored—

(a) in the case of cartridge ammunition for a category A or B longarm, in accordance with clause 1(3) of Schedule 4 to the Firearms Act 1996;

(b) in the case of cartridge ammunition for a category C or D longarm or a general category handgun, in accordance with clause 2(3) of Schedule 4 to the Firearms Act 1996.
(2) A senior IBAC Officer who is authorised under this Part to possess, carry or use a firearm must ensure that any cartridge ammunition is stored—

(a) in the case of cartridge ammunition for a category A or B longarm, in accordance with clause 1(3) of Schedule 4 to the **Firearms Act 1996**;

(b) in the case of cartridge ammunition for a category C or D longarm or a general category handgun, in accordance with clause 2(3) of Schedule 4 to the **Firearms Act 1996**.

82 Requirement to notify Chief Commissioner of Police of loss, theft or destruction

The IBAC must notify the Chief Commissioner of Police of the loss, theft or destruction of any firearm acquired by the IBAC within 24 hours after becoming aware of that loss, theft or destruction.

**PART 6—RECOMMENDATIONS, ACTIONS AND REPORTS**

83 Recommendations

(1) The IBAC may at any time make recommendations in relation to a matter arising out of an investigation about any action that the IBAC considers should be taken to one or more of the following—

(a) the relevant principal officer;

(b) the responsible Minister;

(c) the Premier.
(2) A recommendation under subsection (1) which is not contained in a report must be made in private.

(3) Subject to subsection (4), subsection (2) does not limit the power of the IBAC to make public a recommendation under section 86 or 89 if the IBAC considers there has been a failure to take appropriate action in relation to the recommendation.

(4) The IBAC may require a person (other than the Chief Commissioner of Police) who has received a recommendation under subsection (1) to give a report to the IBAC, within a reasonable specified time, stating—

(a) whether or not he or she has taken, or intends to take, action recommended by the IBAC; and

(b) if the person has not taken the recommended action, or does not intend to take the recommended action, the reason for not taking or intending to take the action.

(5) The person who has received a recommendation under subsection (1) must comply with a requirement of the IBAC under subsection (4).

84 The IBAC may request the Chief Commissioner of Police to take certain actions

(1) After receiving a report on an investigation completed by the Chief Commissioner of Police under Part IVA under the Police Regulation Act 1958 or a report under section 40(3), the IBAC may in writing request the Chief Commissioner of Police to
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012
No. 13 of 2012

s. 9

take any action that the IBAC considers is appropriate—

(a) in addition to any action taken or proposed to be taken by the Chief Commissioner of Police; or

(b) in substitution for any action taken or proposed to be taken by the Chief Commissioner of Police.

(2) The IBAC may under subsection (1) request the Chief Commissioner of Police to conduct a further investigation in accordance with section 86O of the Police Regulation Act 1958.

85 Actions by Chief Commissioner of Police

If the IBAC has made a recommendation under section 83, or a request under section 84, to the Chief Commissioner of Police, the Chief Commissioner of Police must—

(a) adopt the recommendation or take the requested action; or

(b) if the Chief Commissioner of Police has not adopted the recommendation or taken the requested action, or does not intend to adopt the recommendation or take the requested action, give a report to the IBAC stating the reason for not intending to adopt the recommendation or take the requested action.

86 Special reports

(1) The IBAC may at any time cause a report to be transmitted to each House of the Parliament on any matter relating to the performance of its duties and functions.
(2) If the IBAC intends to include in a report under this section adverse findings about a public body, the IBAC must give the relevant principal officer of that public body an opportunity to respond to the adverse material and fairly set out each element of the response in its report.

(3) If the IBAC intends to include in a report under this section a comment or an opinion which is adverse to any person, the IBAC must first provide the person a reasonable opportunity to respond to the adverse material and fairly set out each element of the response in its report.

(4) If the IBAC intends to include in a report under this section a comment or an opinion about any person which is not adverse to the person, the IBAC must first provide that person with the relevant material in relation to which the IBAC intends to name that person.

(5) If the IBAC is aware of a criminal investigation or any criminal proceedings or other legal proceedings in relation to a matter or person to be included in a report under this section, the IBAC must not include in the report any information which would prejudice the criminal investigation, criminal proceedings or other legal proceedings.

(6) The IBAC must not include in a report under this section a statement as to—

(a) a finding or an opinion that a specified person is guilty of or has committed, is committing or is about to commit, any criminal offence or disciplinary offence; or
(b) a recommendation that a specified person be, or an opinion that a specified person should be, prosecuted for a criminal offence or disciplinary offence.

(7) The IBAC must not include in a report under this section any information that would identify any person who is not the subject of any adverse comment or opinion unless the IBAC—

(a) is satisfied that it is necessary or desirable to do so in the public interest; and

(b) is satisfied that it will not cause unreasonable damage to the person's reputation, safety or wellbeing; and

(c) states in the report that the person is not the subject of any adverse comment or opinion.

(8) The IBAC must not include in a report under this section any information that discloses the identity of a person to whom, or in respect of whom, a direction has been given under Division 1 of Part 7 of this Act or Division 4A of Part IV of the Police Regulation Act 1958.

(9) The clerk of each House of the Parliament must cause the report to be laid before the House of the Parliament on the day on which it is received or on the next sitting day of that House of the Parliament.
(10) If the IBAC proposes to transmit a report to the Parliament on a day on which neither House of the Parliament is actually sitting, the IBAC must—

(a) give one business day's notice of intention to do so to the clerk of each House of the Parliament; and

(b) give the report to the clerk of each House of the Parliament on the day indicated in the notice; and

(c) publish the report on the IBAC's Internet website as soon as practicable after giving it to the clerks.

(11) The clerk of each House of the Parliament must—

(a) notify each member of the House of the Parliament of the receipt of the notice under subsection (10)(a) on the same day that the clerk receives that notice; and

(b) give a copy of the report to each member of the House of the Parliament as soon as practicable after the report is received under subsection (10)(b); and

(c) cause the report to be laid before the House of the Parliament on the next sitting day of the House of the Parliament.

(12) A report that is given to the clerks under subsection (10)(b) is taken to have been published by order, or under the authority, of the Houses of the Parliament.
Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012
No. 13 of 2012

Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

(13) The publication of a report by the IBAC under subsection (10)(c) is absolutely privileged and the provisions of sections 73 and 74 of the Constitution Act 1975 and any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the report as if it were a document to which those sections applied and had been published by the Government Printer under the authority of the Parliament.

87 Advice to a complainant and other persons

(1) Subject to subsection (4), the IBAC may provide a complainant with information about the results of an investigation including—

(a) any action taken by the IBAC; and

(b) any recommendation by the IBAC that any action or further action be taken.

(2) Subject to subsection (4), the IBAC must provide a complainant with information about the results of an investigation relating to a corrupt conduct complaint or police personnel conduct complaint in relation to a member of the police force, including—

(a) any action taken by the IBAC; and

(b) any recommendation by the IBAC that any action or further action be taken.

(3) Subject to subsection (4), the IBAC may provide written information about the commencement, conduct or results of an investigation, including any action taken and any recommendation that any action or further action be taken, to one or more of the following—
(a) the relevant principal officer;
(b) the responsible Minister;
(c) the Premier.

(4) The IBAC must not provide any information under this section if the IBAC considers that the provision of the information would—

(a) not be in the public interest or in the interests of justice; or

(b) put a person's safety at risk; or

(c) cause unreasonable damage to a person's reputation; or

(d) prejudice an investigation under this Act or an investigation by the police force; or

(e) be likely to lead to the disclosure of any secret investigative method used by the IBAC or members of police personnel; or

(f) otherwise contravene any applicable statutory secrecy obligations or privacy laws.

88 Outcome of investigation

After conducting an investigation, the IBAC may—

(a) make a recommendation in accordance with section 83;

(b) transmit a special report under section 86;

(c) advise a complainant or other person in accordance with section 87;
(d) do any combination or all or none of the matters referred to in paragraphs (a) to (c);

(e) determine to make no finding or take no action following the investigation.

89 Matters to be included in annual report

(1) The IBAC in its annual report for a financial year under Part 7 of the Financial Management Act 1994 must include—

(a) the prescribed information relating to the performance of its duties and functions;

(b) any recommendations for changes to any Act or law in force in Victoria or for specified administrative actions to be taken which the IBAC considers necessary as a result of the performance of its duties and functions;

(c) a description of its activities in relation to the performance of its duties and functions.

(2) If the IBAC intends to include in its annual report adverse findings about a public body, the IBAC must give the relevant principal officer of that public body an opportunity to respond to the adverse material and fairly set out each element of the response in its report.

(3) If the IBAC intends to include in its annual report a comment or an opinion which is adverse to any person, the IBAC must first provide the person a reasonable opportunity to respond to the adverse material and fairly set out each element of the response in its report.
(4) If the IBAC intends to include in a report under this section a comment or an opinion about any person which is not adverse to the person, the IBAC must first provide that person with the relevant material in relation to which the IBAC intends to name the person.

(5) If the IBAC is aware of a criminal investigation or any criminal proceedings or other legal proceedings in relation to a matter or person to be included in its annual report, the IBAC must not include in the annual report any information which would prejudice the criminal investigation, criminal proceedings or other legal proceedings.

(6) The IBAC must not include in its annual report a statement as to—

(a) a finding or an opinion that a specified person is guilty of or has committed, is committing or is about to commit, any criminal offence or disciplinary offence; or

(b) a recommendation that a specified person be, or an opinion that a specified person should be, prosecuted for an offence or a disciplinary offence.

(7) The IBAC must not include in its annual report any information that would identify any person who is not the subject of any adverse comment or opinion unless the IBAC—

(a) is satisfied that it is necessary or desirable to do so in the public interest; and
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

Amendment of the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012
No. 13 of 2012

(b) is satisfied that it will not cause unreasonable damage to a person's reputation, safety or wellbeing; and
(c) states in the report that the person is not the subject of any adverse comment or opinion.

(8) The IBAC must not include in its annual report any information that discloses the identity of a person to whom, or in respect of whom, a direction has been given under Division 1 of Part 7 of this Act or Division 4A of Part IV of the Police Regulation Act 1958.

PART 7—GENERAL

Division 1—Alcohol and drug testing of IBAC Officers

90 Application of Division

(1) This Division does not apply to the Commissioner.

(2) In this Division, a reference to an IBAC Officer does not include a reference to the Commissioner.

91 Alcohol and drug testing of IBAC Officers

(1) The IBAC may direct an IBAC Officer to test for the presence of alcohol or a drug of dependence if the IBAC reasonably believes that—

(a) the test result is relevant to the capacity of the IBAC Officer to perform his or her duties or exercise his or her powers; or
(b) the IBAC Officer has been involved in a critical incident.

(2) A direction under subsection (1) must specify whether the IBAC Officer is required to do one or more of the following—

(a) provide a sample of breath;

(b) provide a sample of urine;

(c) allow a registered medical practitioner or an approved health professional to take from the officer a sample of the officer's blood.

(3) A direction under subsection (1) must be—

(a) in writing; and

(b) made in accordance with the regulations.

(4) Nothing in this section affects the operation of Part 5 of the Road Safety Act 1986.

92 The IBAC may have regard to evidence in certain circumstances

The IBAC may have regard to evidence derived from a sample obtained in accordance with a direction made under this Division in—

(a) managing the performance of the duties or the exercise of the powers of the IBAC Officer; or

(b) taking any disciplinary action against the IBAC Officer relating to the performance of the duties or the exercise of the powers of the IBAC Officer as an IBAC Officer under this Act.
93 Taking a sample when an IBAC Officer is unconscious or otherwise unable to comply with direction

(1) If an IBAC Officer is unconscious or otherwise unable to comply with a direction and the IBAC reasonably believes that the IBAC Officer was involved in a critical incident, the IBAC may direct a registered medical practitioner to take from the IBAC Officer a sample of blood to test for the presence of alcohol or a drug of dependence.

(2) If a sample of blood is taken under subsection (1), the IBAC must, upon the IBAC Officer regaining consciousness or otherwise becoming able to comply with a direction, advise the IBAC Officer—
   (a) of the taking of the sample; and
   (b) that he or she may refuse to consent to the use of any evidence derived from the sample; and
   (c) that a refusal to consent to the use of the evidence may constitute grounds for disciplinary action against the IBAC Officer.

(3) A direction under subsection (1) must be—
   (a) in writing; and
   (b) made in accordance with the regulations.

(4) The IBAC must destroy any evidence derived from a sample of blood taken under subsection (1) if the IBAC Officer refuses to consent to the use of that evidence in the circumstances set out in subsection (2).
(5) The IBAC must destroy any sample of blood taken under subsection (1) in respect of which consent is refused.

(6) Nothing in this section affects the operation of Part 5 of the Road Safety Act 1986.

94 Admissibility of test result in certain proceedings

(1) Evidence derived from a sample obtained in accordance with a direction made under this Division is inadmissible in any proceeding in a court, tribunal or before a person or body authorised to hear and receive evidence.

(2) Subject to subsection (3), subsection (1) does not apply—

(a) in a proceeding under the Accident Compensation Act 1985 to rebut or support an allegation that the presence of alcohol or a drug of dependence contributed to the injury in respect of which the proceeding was commenced; or

(b) in a prosecution under the Occupational Health and Safety Act 2004 to rebut or support an allegation that the presence of alcohol or a drug of dependence contributed to the occurrence of the act, matter or thing constituting the offence in respect of which the prosecution is brought; or

(c) in a proceeding arising out of, or connected with, a critical incident; or

(d) in a proceeding to the extent that the evidence is relevant to the defence of a person, other than the IBAC Officer who provided the sample, to rebut or support an allegation that the presence
of alcohol or a drug of dependence affected the performance of the duties or the exercise of the powers of the IBAC Officer as an IBAC Officer; or

(e) to any disciplinary action against the IBAC Officer relating to the performance of the duties or the exercise of the powers of the IBAC Officer as an IBAC Officer under this Act.

(3) Subsection (2) does not apply to evidence derived from a sample obtained in accordance with a direction made under section 93(1) if the IBAC Officer from whom the sample was taken refuses to consent to the use of that evidence in the circumstances set out in section 93(2).

(4) In this section, proceeding includes a coronial inquest or inquiry.

95 Handling and confidentiality of test results

The IBAC must ensure that the result of any test conducted in accordance with a direction given under this Division is handled in accordance with the regulations.

96 Offence to disclose identifying information

A person must not disclose to any person the identity of a person to whom or in respect of whom a direction is given under this Division other than as required or authorised by—

(a) this Act; or

(b) the regulations.

Penalty: 60 penalty units.
97 **No action against registered medical practitioner or approved health professional**

No action lies against a registered medical practitioner or an approved health professional in respect of anything properly and necessarily done by the practitioner or health professional in the course of taking any sample which the practitioner or health professional believes on reasonable grounds was required or allowed to be taken from any IBAC Officer under this Division.

**Division 2—Offences and Proceedings**

98 **Offence to impersonate IBAC Officer**

A person who is not an IBAC Officer must not, in any way, hold himself or herself out to be an IBAC Officer.

Penalty: 120 penalty units or imprisonment for 12 months or both.

99 **Offence to hinder or obstruct an IBAC Officer**

A person must not, without reasonable excuse, hinder or obstruct an IBAC Officer who is performing a function or exercising a power under Part 4 or 5.

Penalty: 120 penalty units or imprisonment for 12 months or both.
100 Compliance with direction or requirement

A person must not, without reasonable excuse, refuse or fail to comply with a direction or requirement made of the person in the exercise of a power by an IBAC Officer under this Act or the regulations.

Penalty: 120 penalty units or imprisonment for 12 months or both.

101 Statement which is false or misleading

A person must not wilfully make a statement that the person knows to be false or misleading in a material particular or mislead or attempt to mislead the IBAC or an IBAC Officer in the exercise of its, his or her powers under this Act or the regulations.

Penalty: 120 penalty units or imprisonment for 12 months or both.

102 Offences by corporations

(1) If a corporation is guilty of an offence against this Act or the regulations, any officer of the corporation knowingly concerned in or party to the commission of the offence is also guilty of that offence and liable to the penalty for that offence.

(2) If in a proceeding for an offence against this Act or the regulations it is necessary to establish the intention of a corporation, it is sufficient to show that an employee or agent of the corporation had that intention.

(3) A statement made by an officer of a corporation is admissible as evidence against the corporation in any proceeding against the corporation for an offence against this Act or the regulations.
(4) In this section, officer—

(a) in relation to a corporation within the meaning of the Corporations Act, has the same meaning as in section 9 of that Act; and

(b) in relation to an entity that is neither an individual nor a corporation within the meaning of the Corporations Act, means any person (by whatever name called) who is concerned or takes part in the management of the corporation.

103 Maximum fine for body corporate

(1) If a body corporate is found guilty of an offence against this Act or the regulations and the court has power to fine the body corporate, it may, unless the contrary intention appears, impose on the body corporate a fine not greater than 5 times the amount of the maximum fine that could be imposed by the court on a natural person found guilty of the same offence committed at the same time.

(2) This section has effect despite—

(a) anything to the contrary in the Sentencing Act 1991; and

(b) the prescription of a maximum fine for the offence applicable to all offenders.

104 Responsible agency for the Crown

(1) If proceedings are brought against the Crown for an offence against this Act or the regulations, the responsible agency in respect of the offence may be specified in any document initiating, or relating to, the proceedings.
(2) In this section, the responsible agency in respect of an offence is the agency of the Crown—

(a) whose acts or omissions are alleged to constitute the offence; or

(b) if that agency has ceased to exist, that is the successor of that agency; or

(c) if that agency has ceased to exist and there is no clear successor, that the court declares to be the responsible agency.

(3) The responsible agency in respect of an offence is entitled to act in proceedings against the Crown for the offence and, subject to any relevant rules of court, the procedural rights and obligations of the Crown as the accused in the proceedings are conferred or imposed on the responsible agency.

(4) The person prosecuting the offence may change the responsible agency during the proceedings with the leave of the court.

105 Proceedings against successors to public bodies

Proceedings for an offence against this Act or the regulations that were commenced against a public body before its dissolution, or that could have been commenced against a public body if not for its dissolution, may be continued or commenced against its successor if the successor is a public body.
106 **Power to bring proceedings**

Proceedings for an offence under this Act or the regulations may be brought by—

(a) the IBAC;

(b) a sworn IBAC Officer who is authorised by the Commissioner;

(c) a member of the police force who is authorised by the Commissioner.

107 **Service of document**

(1) Any document under this Act or the regulations required or authorised to be given or served to or upon any person (other than a body corporate) may be served by—

(a) giving it or serving it personally on the person; or

(b) sending it by post or electronic communication to the person at that person's usual or last known place of residence or business; or

(c) leaving it at that person's usual or last known place of residence with a person on the premises who is apparently at least 16 years old; or

(d) leaving it at that person's usual or last known place of business with a person who is apparently employed at the premises and who is apparently at least 16 years old.

(2) Any document under this Act or the regulations required or authorised to be given or served to or upon a body corporate may be served by—
(a) giving it or serving it on; or
(b) sending it by post or electronic communication to—
the body corporate at the head office, registered office or principal office of the body corporate.

(3) This section is in addition to, and not in derogation from, sections 109X and 601CX of the Corporations Act.

108 Validity and effect of notices, orders and other documents and deemed service

(1) The validity of any notice, order or other document or of the service of the notice, order or other document is not affected by any error, misdescription or irregularity which in the opinion of a court is not likely to mislead or which in fact does not mislead.

(2) If due service of a notice, order or other document required under this Act or the regulations to be given or served on any owner or occupier has been once made on any owner or occupier, the notice, order or other document is binding on all persons claiming by, from or under that owner or occupier and on all subsequent owners or occupiers to the same extent as if served on each of those persons respectively.

Division 3—Miscellaneous

109 Exemption from Freedom of Information Act 1982

(1) The Freedom of Information Act 1982 does not apply to a document that is in the possession of any person or body to the extent to which the document discloses information that relates to—
(a) a complaint; or
(b) an investigation conducted under this Act; or
(c) a recommendation made by the IBAC under this Act; or
(d) a report, including a draft report, on an investigation conducted under this Act.

(2) In this section, document has the same meaning as it has in the Freedom of Information Act 1982.

110 Regulations

(1) The Governor in Council may make regulations for or with respect to any matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

(2) The regulations—

(a) may be of general or limited application;
(b) may differ according to differences in time, place or circumstance;
(c) may leave any matter or thing to be from time to time determined, applied, dispensed with or regulated by a specified person or class of persons;
(d) may provide in a specified case or class of case for the exemption of persons or things or a class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to the extent specified;
Part 2—Amendment of the Independent Broad-based Anti-corruption Commission Act 2011

(e) may confer powers or impose duties in connection with the regulations on any specified person or specified class of persons;

(f) may apply, adopt or incorporate with or without modification, any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed (whether under this or any other Act) or published by any person—

(i) wholly or partially or as amended by the regulations; or

(ii) as formulated, issued, prescribed (whether under this or any other Act) or published at the time the regulations are made or at any time before then; or

(iii) as formulated, issued, prescribed (whether under this or any other Act) or published from time to time;

(g) may impose a penalty not exceeding 20 penalty units for a contravention of the regulations.

(3) Any regulations made under sections 36 and 37 of this Act as in force before the commencement of section 9 of the Independent Broad-based Anti-corruption Commission Amendment (Investigative Functions) Act 2012 which are in operation immediately before that commencement are deemed to have been made under this Act as amended by that section 9.
111 Regulations—specific matters

Without limiting the generality of section 110, the regulations may prescribe—

(a) a body or entity to be a public body;

(b) an office to be a public office;

(c) security checks for IBAC Officers;

(d) requirements relating to the issue of identity cards to IBAC Officers and the use of the identity cards;

(e) requirements for the disclosure and reporting of pecuniary interests by IBAC Officers, including providing for the manner of disclosure (whether by statutory declaration or otherwise) and the compilation, maintenance and publication of registers of pecuniary interests;

(f) the information to be included by the IBAC in its annual report;

(g) an appropriate course of training in the use of defensive equipment;

(h) an appropriate course of training in the use of firearms;

(i) the persons authorised to analyse samples for the purpose of detecting the presence of alcohol or drugs of dependence;

(j) the circumstances in which a breath sample, a urine sample or a blood sample may be taken;

(k) the procedure for the taking of samples of breath, urine or blood;
(l) the devices used in carrying out the breath tests, breath analyses and other tests, including the calibration, inspection and testing of those devices;

(m) the requirements relating to the accreditation of persons conducting analyses for the presence of drugs of dependence;

(n) the procedure for the handling and analysis of samples of urine or blood;

(o) offences relating to interference with test results or the testing procedure;

(p) the requirements in relation to the handling and confidentiality of test results;

(q) forms for the purposes of this Act.
PART 3—AMENDMENTS TO OTHER ACTS AND REPEAL

10 Amendment of section 12A of the Parliamentary Committees Act 2003

After section 12A(1) of the Parliamentary Committees Act 2003 insert—

"(1A) Despite anything to the contrary in subsection (1), the IBAC Committee cannot—

(a) investigate a matter relating to particular conduct the subject of any particular complaint or notification made to the IBAC in accordance with the Independent Broad-based Anti-corruption Commission Act 2011;

(b) review any decision to investigate, not to investigate or to discontinue the investigation of, a particular complaint or notification made to the IBAC in accordance with the Independent Broad-based Anti-corruption Commission Act 2011;

(c) review any findings, recommendations, determinations or other decisions of the IBAC in relation to a particular complaint or notification made to, or investigation conducted by, the IBAC in accordance with the Independent Broad-based Anti-corruption Commission Act 2011;

(d) disclose any information relating to the performance of a function or the exercise of a power by the IBAC which may—

   (i) prejudice any criminal investigation or criminal proceedings; or
(ii) prejudice any investigation being
created by the IBAC; or

(iii) contravene any secrecy or

confidentiality provision in any

relevant Act.".

11 Amendment of Police Regulation Act 1958

(1) In section 3(1) of the Police Regulation Act

1958—

(a) the definitions of Director, member of staff

of the Office of Police Integrity and Office

of Police Integrity are

repealed;

(b) after the definition of former member of

police personnel insert—

"IBAC has the same meaning as it has in

section 3 of the Independent Broad-

based Anti-corruption Commission

Act 2011;

IBAC Officer has the same meaning as it has in

section 3 of the Independent Broad-

based Anti-corruption Commission

Act 2011;";

(c) in the definition of law enforcement agency

for paragraph (b) substitute—

"(b) the IBAC; or".

(2) In section 69(1)(ac) of the Police Regulation Act

1958 for "section 47 of the Police Integrity Act

2008" substitute "section 53 of the Independent

Broad-based Anti-corruption Commission Act

2011".

(3) In section 69(1)(bc) of the Police Regulation Act

1958 for "Division 5 of Part 2 of the Police

Integrity Act 2008" substitute "Division 1 of

Part 7 of the Independent Broad-based Anti-

corruption Commission Act 2011".
(4) In section 69(1)(bd) of the Police Regulation Act 1958 for "section 33 of the Police Integrity Act 2008" substitute "section 93 of the Independent Broad-based Anti-corruption Commission Act 2011".

(5) Section 69(3) of the Police Regulation Act 1958 is repealed.

(6) For section 85G(2)(b) of the Police Regulation Act 1958 substitute—

"(b) the IBAC or an IBAC Officer.".

(7) In sections 86L, 86M, 86O and 86V(1)(b) of the Police Regulation Act 1958 for "Director" (wherever occurring) substitute "IBAC".

(8) For the note to section 86L(1) of the Police Regulation Act 1958 substitute—

"Note
Complaints made to the IBAC are investigated under Part 3 of the Independent Broad-based Anti-corruption Commission Act 2011."

(9) In section 86L(2) of the Police Regulation Act 1958—

(a) in paragraph (c) for "person; and" substitute "person."

(b) paragraph (d) is repealed.

(10) At the foot of section 86L(2) of the Police Regulation Act 1958 insert—

"Note
Under Part 3 of the Independent Broad-based Anti-corruption Commission Act 2011, complaints to the IBAC must be in writing unless the IBAC determines that there are exceptional circumstances.".
(11) For the note to section 86T(1) of the Police Regulation Act 1958 substitute—

"Note

See the Independent Broad-based Anti-corruption Commission Act 2011 for the equivalent provision applicable in the case of complaints made to the IBAC."

(12) In section 86V(1)(b) of the Police Regulation Act 1958 for "Police Integrity Act 2008" substitute "Independent Broad-based Anti-corruption Commission Act 2011".

(13) Section 136 of the Police Regulation Act 1958 is repealed.

12 Amendment of the Major Crime (Investigative Powers) Act 2004

In section 9(1) of the Major Crime (Investigative Powers) Act 2004—

(a) for "8(a) and (b)" substitute "8(1)(a) and (1)(b)";

(b) for "8(b)(i), (ii) and (iii)" substitute "8(1)(b)(i), 8(1)(b)(ii) and 8(2)".

13 Amendment of Surveillance Devices Act 1999

(1) In section 3(1) of the Surveillance Devices Act 1999—

(a) in the definition of chief officer after paragraph (d) insert—

"(da) in relation to the IBAC—the Commissioner;";

(b) in the definition of law enforcement agency after paragraph (d) insert—

"(da) the IBAC;";
(c) in the definition of law enforcement officer after paragraph (d) insert—

"(da) in relation to the IBAC—a prescribed IBAC Officer; ";

(d) in the definition of senior officer after paragraph (d) insert—

"(da) in relation to the IBAC—

(i) the Commissioner; or

(ii) a prescribed IBAC Officer who holds a position, or is a member of a class, that is prescribed by the regulations for the purposes of this definition; ";

(e) insert the following definitions—

"Commissioner has the same meaning as it has in section 3(1) of the Independent Broad-based Anti-corruption Commission Act 2011;

IBAC means the Independent Broad-based Anti-corruption Commission established under the Independent Broad-based Anti-corruption Commission Act 2011;

prescribed IBAC Officer means a sworn IBAC Officer within the meaning of section 3(1) of the Independent Broad-based Anti-corruption Commission Act 2011 who holds a position, or is a member of a class, that is prescribed by the regulations for the purposes of this definition; ".

s. 13
(2) In section 3(1) of the **Surveillance Devices Act 1999**—

(a) in the definition of *chief officer* paragraph (e) is **repealed**;

(b) the definitions of *Director, Office of Police Integrity* and *prescribed member of staff of the Office of Police Integrity* are **repealed**;

(c) in the definition of *law enforcement agency* paragraph (e) is **repealed**;

(d) in the definition of *law enforcement officer* paragraph (e) is **repealed**;

(e) in the definition of *senior officer* paragraph (e) is **repealed**.

14 Amendment of sections 1 and 3 of the **Telecommunications (Interception) (State Provisions) Act 1988**

(1) In section 1 of the **Telecommunications (Interception) (State Provisions) Act 1988** after "enable the" insert "IBAC, the".

(2) In section 3(1) of the **Telecommunications (Interception) (State Provisions) Act 1988**—

(a) in the definition of *agency* after paragraph (e) insert—

"or

(f) the IBAC;"

(b) in the definition of *permitted purpose* after paragraph (b) insert—

"(c) in relation to the IBAC—

(i) an investigation by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or
(ii) a report by the IBAC on an investigation by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or

(iii) any recommendation made by the IBAC under the **Independent Broad-based Anti-corruption Commission Act 2011**; or

(iv) an investigation by the IBAC of a prescribed offence within the meaning of the Commonwealth Act; or

(v) the making by an authority, body or person of a decision whether or not to begin a relevant proceeding in relation to the IBAC; or

(vi) a relevant proceeding in relation to the IBAC; or

(vii) the exercise by the IBAC of the powers conferred by section 68 of the Commonwealth Act; or

(viii) the keeping of records by the IBAC under sections 9F, 9G and 9H;"

(c) **insert** the following definitions—

"**IBAC** means the Independent Broad-based Anti-corruption Commission established under the **Independent Broad-based Anti-corruption Commission Act 2011**;

**IBAC Officer** has the same meaning as it has in section 3(1) of the **Independent Broad-based Anti-corruption Commission Act 2011**;".”
s. 15


"PART 2B—FUNCTIONS OF THE IBAC

9F Documents connected with issue of warrants to be kept

The IBAC must cause to be kept in the records of the IBAC—

(a) each warrant issued to the IBAC; and

(b) a copy of each notification by the IBAC under section 59A of the Commonwealth Act; and

(c) each instrument revoking a warrant issued to the IBAC; and

(d) a copy of each certificate issued under section 61(4) of the Commonwealth Act by a certifying officer; and

(e) a copy of each authorisation by the IBAC under section 66(2) of the Commonwealth Act; and

(f) particulars of any telephone application for a Part 2–5 warrant made by the IBAC.

9G Other records to be kept in connection with interceptions

(1) The IBAC must cause—

(a) in relation to each application by the IBAC for a Part 2–5 warrant, a statement as to whether—

(i) the application was withdrawn or refused; or
(ii) a warrant was issued on the application; and

(b) in relation to each Part 2–5 warrant whose authority is exercised by the IBAC, particulars of—

(i) the warrant; and

(ii) the day on which, and the time at which, each interception under the warrant began; and

(iii) the duration of each such interception; and

(iv) the name of the person who carried out each such interception; and

(v) in relation to a named person warrant, each service to or from which communications have been intercepted under the warrant; and

(c) in relation to each restricted record that has at any time been in the possession of the IBAC, particulars of—

(i) if the restricted record is a record obtained by an interception under a warrant issued to the IBAC, that warrant; and

(ii) each occasion when the restricted record came (whether by its making or otherwise) to be in the possession of the IBAC; and

(iii) each occasion (if any) when the restricted record ceased (whether by its destruction or otherwise) to be in the possession of the IBAC; and
(iv) each agency or other body (if any) from or to which, or other person (if any) from or to whom, the IBAC received or supplied the restricted record; and

d particulars of each use made by the IBAC of lawfully intercepted information; and

e particulars of each communication of lawfully intercepted information by an IBAC Officer to a person or body other than an IBAC Officer; and

(f) particulars of each occasion when, to the knowledge of an IBAC Officer, lawfully intercepted information was given in evidence in a relevant proceeding in relation to the IBAC—

to be recorded in writing or by means of a computer as soon as practicable after the happening of the events to which the particulars relate or the statement relates, as the case may be.

(2) The IBAC must cause to be kept in the records of the IBAC each record that the IBAC has caused to be made under this section.

9H Keeping and destruction of restricted records

(1) The IBAC must cause a restricted record that is in the possession of the IBAC to be kept, except when it is being otherwise dealt with in accordance with the Commonwealth Act and this Act, in a secure place where it is not accessible to persons other than persons who are entitled so to deal with it.
Part 3—Amendments to other Acts and Repeal

(2) The IBAC must cause a restricted record of a kind referred to in subsection (1) to be destroyed forthwith if the IBAC is satisfied that the restricted record is not likely to be required for a permitted purpose in relation to the IBAC.

______________________________________ ".

16 Repeal of Police Integrity Act 2008

The Police Integrity Act 2008 is repealed.

17 Repeal of amending Act

This Act is repealed on the day that is the first anniversary of the first day on which all the provisions of this Act are in operation.

Note

The repeal of this Act does not affect the continuing operation of the amendments and repeals made by this Act (see section 15(1) of the Interpretation of Legislation Act 1984).
ENDNOTES

† Minister's second reading speech—
Legislative Assembly: 8 December 2011
Legislative Council: 9 February 2012

The long title for the Bill for this Act was "A Bill for an Act to amend the Independent Broad-based Anti-corruption Commission Act 2011, to consequentially amend the Parliamentary Committees Act 2003, the Police Regulation Act 1958, the Surveillance Devices Act 1999 and the Telecommunications (Interception) (State Provisions) Act 1988, to repeal the Police Integrity Act 2008 and for other purposes."