

Australian Crime Commission Amendment Regulations 2003 (No. 2)

2003 No. 236

EXPLANATORY STATEMENT

Statutory Rules 2003 No. 236

Issued by the authority of the Minister for Justice and Customs

Subject: *Australian Crime Commission Act 2002*

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Section 62 of the *Australian Crime Commission Act 2002* ('the Act') provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Australian Crime Commission Regulations 2002* ('the Principal Regulations') set out various matters necessary to give effect to the Act.

The Commonwealth Government has established the Australian Crime Commission (ACC) as a cooperative agency to strengthen the fight against nationally significant crime. The ACC has duties, functions and powers conferred on it by the Act and can also have duties, functions and powers conferred on it by corresponding State laws.

The conferral of duties, functions and powers by State laws is necessary to enable the ACC to conduct an intelligence operation or an investigation in relation to a State offence that does not have a federal aspect. Section 55A of the Act provides for the conferral of such duties, functions and powers.

In particular, subsection 55A(4) of the Act provides for a law of a State to confer a duty, function or power for the investigation of a matter relating to a relevant criminal activity on the Board, the Chair of the Board, the CEO, an examiner or a member of the staff of the ACC. Under paragraph 55A(4)(b), such a duty, function or power must be of the same kind conferred by the Act or any other Act, or be of a kind specified in regulations.

Subsection 55A(5) provides for a law of a State to confer a duty, function or power for the undertaking of an intelligence operation on the Board, the Chair of the Board, the CEO, an examiner or a member of the staff of the ACC. Under paragraph 55A(5)(b), such a duty, function or power must be of the same kind conferred by the Act or any other Act, or be of a kind specified in regulations.

Section 4 of the Act provides that a relevant criminal activity means any circumstances implying, or any allegations, that a serious and organised crime may have been, may be being, or may in future be, committed against a law of the Commonwealth, of a State or of a Territory. That section also provides that an intelligence operation means the collection, correlation, analysis or dissemination of criminal information and intelligence relating to federally relevant criminal activity.

The purpose of the regulations is to prescribe certain provisions of Victorian laws for the purposes of paragraphs 55A(4)(b) and 55A(5)(b) of the Act, for the conferral of certain duties, functions and powers on the CEO, an examiner or a member of the staff of the ACC. These

duties, functions or powers are for the investigation of matters relating to relevant criminal activities or the undertaking of intelligence operations. Certain provisions in the following Victorian laws have been identified as requiring prescription by the Principal Regulations:

- the Casino Control Act 1991;
- the Gaming Machine Control Act 1991;
- the Gaming No 2 Act 1997;
- the Surveillance Devices Act 1999; and
- the Witness Protection Act 1991.

Recently, Victoria enacted the Australian Crime Commission (State Provisions) Act 2003 to provide for the operation of the ACC in Victoria. The Victorian legislation complements the Act and the Principal Regulations by enabling the ACC to undertake like functions to those under the Act for State offences, irrespective of whether those offences have a federal aspect. This complementary legislative framework ensures that the ACC can operate as effectively and seamlessly as possible on a national basis.

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

The regulations commence on gazettal.

ATTACHMENT

Australian Crime Commission Amendment Regulations 2003 (No. 2)

Regulation 1 describes how the regulations are to be cited.

Regulation 2 provides that the regulations commence on gazettal.

Regulation 3 provides that the Principal Regulations are amended in accordance with Schedule 1 of the regulations.

Schedule 1, Item 1 inserts a new subregulation 8A in the Principal Regulations providing that the relevant Victorian laws referred to in Schedule 3 of the regulations may confer a duty, function or power on the person or body mentioned in Schedule 3 of the regulations for the purposes of subparagraphs 55A(4)(b)(ii) and (5)(b)(ii) of the Act.

In order for the ACC to operate as a cooperative agency to strengthen the fight against nationally significant crime, the ACC has duties, functions and powers conferred on it by the ACC Act and corresponding State laws.

The regulations allow the relevant Victorian legislation to confer the duties, functions and powers on the CEO, examiner or member of the staff of the ACC that are necessary to ensure that the ACC can operate as effectively and seamlessly as possible on a national basis.

Schedule 1, Item 2 inserts a new Schedule 3 in the Principal Regulations. The Schedule identifies the duties, functions and powers conferred by the relevant Victorian laws on a person or body. The Schedule lists the relevant legislation and provision, the type of duty, function or power conferred, and the person or body on whom the duty, function or power is conferred.