

**STATE DRUG CRIME COMMISSION (FURTHER
AMENDMENT) ACT 1988 No. 87**

NEW SOUTH WALES



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**STATE DRUG CRIME COMMISSION (FURTHER AMENDMENT)
ACT 1988 No. 87**

NEW SOUTH WALES



Act No. 87, 1988

An Act to amend the State Drug Crime Commission Act 1985 in relation to the constitution and functions of the State Drug Crime Commission and the State Drug Crime Commission Management Committee, and for other purposes. [Assented to 12 December 1988]

State Drug Crime Commission (Further Amendment) 1988

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Drug Crime Commission (Further Amendment) Act 1988.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of State Drug Crime Commission Act 1985 No. 117

3. The State Drug Crime Commission Act 1985 is amended as set out in Schedule 1.

Savings

4. Schedule 2 has effect.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Long title—

Omit “related crime”, insert instead “organised and other crime”.

(2) Section 3 (**Definitions**)—

(a) Section 3 (1)—

After the definition of “document”. insert:

“illegal drug trafficking” includes crime related to illegal drug trafficking;

(b) Section 3 (1), definition of “investigation”—

After “Act”, insert “, but does not include a review by the Commission under section 6 (1) (b1) of a police inquiry”.

(c) Section 3 (1)—

After the definition of “member of the staff of the Commission”, insert:

“police inquiry” means an inquiry carried out under the authority of the Commissioner of Police;

“police task force” means a task force under the authority of the Commissioner of Police;

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(d) Section 3 (1)—

Omit the definitions of “relevant drug activity” and “relevant drug offence”, insert instead:

“relevant criminal activity” means any circumstances implying, or any allegations, that a relevant offence may have been, or may be being, or may be about to be, committed;

“relevant offence” means—

(a) a serious drug offence that involves substantial planning and organisation; or

(b) an offence—

(i) that involves 2 or more offenders and substantial planning and organisation; and

(ii) that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques; and

(iii) that is committed, or is of a kind that is ordinarily committed, in conjunction with other offences of a like kind; and

(iv) that involves theft, fraud, tax evasion, illegal drug dealings, illegal gambling, obtaining financial benefit by vice engaged in by others, extortion, violence, bribery or corruption of, or by, an officer of the State, bankruptcy and company violations, harbouring of criminals, or that involves matters of the same general nature as one or more of the foregoing,

but—

(c) does not include an offence the time for the commencement of a prosecution for which has expired; and

(d) does not include an offence for which there is no penalty of imprisonment; and

(e) does not include an offence for which the maximum penalty of imprisonment is a period of less than 3 years;

(e) Section 3 (1A)—

After section 3 (1), insert:

(1A) A reference to an officer of the State in the definition of “relevant offence” shall be taken to include a reference to—

(a) a Minister of the Crown; and

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) a member of the Legislative Council or of the Legislative Assembly; and
 - (c) a person holding or acting in an office (including a judicial office) or appointment, or employed, under a law of the State; and
 - (d) a person who is, or is a member of, an authority or body established for a public purpose by or under a law of the State or is an officer or employee of such an authority or body.
- (3) The whole Act—
Omit “relevant drug activity” wherever occurring (except where those words are or are to be omitted by other provisions of this Act), insert instead “relevant criminal activity”.
- (4) The whole Act—
Omit “relevant drug offence” wherever occurring (except where those words are or are to be omitted by other provisions of this Act), insert instead “relevant offence”.
- (5) Section 3A—
After section 3, insert:
Objects
3A. (1) The principal object of this Act is to reduce the incidence of illegal drug trafficking.
(2) The secondary object of this Act is to reduce the incidence of organised and other crime.
- (6) Section 5 (**The Commission**)—
- (a) Section 5 (3)—
Omit “3 members”, insert instead “2 or more members”.
 - (b) Section 5 (4)—
Omit the subsection, insert instead:
 - (4) Of the members—
 - (a) one shall, in and by the instrument by which the member is appointed, be appointed as a full-time member and Chairperson of the Commission; and
 - (b) one or more shall, in and by the instruments by which they are appointed, be appointed as full-time members or part-time members.
 - (c) Section 5 (5)—
Omit the subsection.

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SCHEDULE 1—AMENDMENTS—*continued*

- (d) Section 5 (6)—
Omit “At least one of the full-time members”, insert instead “The Chairperson”.
- (7) Section 6 (**Principal functions of the Commission**)—
- (a) Section 6 (1) (a)—
After “Committee”, insert “for investigation”.
- (b) Section 6 (1) (b1)—
After section 6 (1) (b), insert:
(b1) to review a police inquiry into matters relating to any criminal activity (being an inquiry referred for review to the Commission by the Management Committee) and to furnish its findings to the Committee together with any recommendation as to action the Commission considers should be taken in relation to those findings;
- (c) Section 6 (1) (c)—
Omit “related crime”, insert instead “organised and other crime”.
- (d) Section 6 (5)—
After section 6 (4), insert:
(5) In exercising its principal functions, the Commission shall give high priority to matters relating to illegal drug trafficking, as far as practicable.
- (8) Section 9 (**Delegation by Commission**)—
Section 9 (1) (b)—
Omit “to conduct hearings”, insert instead “to make a decision whether or not to hold a hearing and to determine the number of members of the Commission who shall conduct it”.
- (9) Section 10 (**Commission may require information from certain State agencies**)—
Section 10 (1), (2)—
Omit “full-time” wherever occurring.
- (10) Section 11 (**Search warrants**)—
Section 11 (2)—
Omit “full-time”.
- (11) Section 13 (**Hearings**)—
Omit section 13 (2), (3), insert instead:
(2) A hearing shall be conducted by one or more members of the Commission, as determined by the Commission.

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SCHEDULE 1—AMENDMENTS—*continued*

(3) At a hearing conducted by 2 or more members of the Commission, the member presiding shall be a person who has special legal qualifications and Schedule 2 shall apply, so far as it is capable of application, as if the hearing were a meeting of the Commission.

(3A) At a hearing conducted by one member of the Commission, the member shall be a person who has special legal qualifications.

(12) Section 24 (**The Management Committee**)—

(a) Section 24 (1)—

Omit “4 members”, insert instead “5 members”.

(b) Section 24 (1) (c)—

Omit “and”.

(c) Section 24 (1) (d), (e)—

At the end of paragraph (d), insert:

; and

(e) one shall be the Chairman of the Police Board of New South Wales,

(13) Section 25 (**Functions of the Management Committee**)—

(a) Section 25 (1) (a)—

Omit “relevant drug activities”, insert instead “relevant criminal activities”.

(b) Section 25 (1) (a)–(a2)—

At the end of section 25 (1) (a), insert:

; and

(a1) to refer (by a written notice) to the Commission, for review, police inquiries into matters relating to any criminal activities; and

(a2) to arrange (in accordance with section 27A) for police task forces to assist the Commission to carry out investigations into matters relating to relevant criminal activities; and

(c) Section 25 (3)—

Omit the subsection, insert instead:

(3) The Management Committee may, by the terms of a reference, impose limitations—

(a) on the carrying out of an investigation by the Commission into any matter relating to a relevant criminal activity referred to the Commission for investigation; and

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) on the carrying out of a review of a police inquiry referred to the Commission for review.
- (d) Section 25 (6)—
 After section 25 (5), insert:
 (6) In exercising its principal functions, the Management Committee shall give high priority to matters relating to illegal drug trafficking, as far as practicable.
- (14) Section 26 (**Commission may request reference**)—
 Section 26 (1)—
 Omit “refer a matter relating to relevant drug activity to the Commission for investigation.”, insert instead “refer to the Commission—
 (a) for investigation, a matter relating to relevant criminal activity; and
 (b) for review, a police inquiry into a matter relating to any criminal activity.”.
- (15) Section 27A—
 After section 27, insert:
Police task forces to assist Commission
 27A. (1) The Management Committee may make arrangements with the Commissioner of Police for a police task force to assist the Commission to carry out an investigation into matters relating to a relevant criminal activity.
 (2) In assisting the Commission to carry out such an investigation, the police task force is (subject to subsection (3)) under the control and direction of the Commissioner of Police.
 (3) The Management Committee may give directions and furnish guidelines to the Commission and the Commissioner of Police for the purpose of co-ordinating such an investigation, and the Commission and the Commissioner shall comply with any such directions and guidelines.
- (16) Section 29 (**Secrecy**)—
 Section 29 (1) (b), (c)—
 At the end of section 29 (1) (b), insert:
 ; and
 (c) a member of a police task force assisting the Commission in accordance with an arrangement under section 27A.

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SCHEDULE 1—AMENDMENTS—*continued*

(17) Section 29A—

After section 29, insert:

Disclosures prejudicing investigations

29A. (1) A person who is required—

- (a) by a notice under section 10 or 17 to furnish information or to attend and produce a document or other thing; or
- (b) by a summons under section 16 to give evidence or to produce a document or other thing,

shall not disclose any information about the notice or summons that is likely to prejudice the investigation to which it relates.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

(2) Subsection (1) does not apply to a notice or summons unless it (or a notice accompanying it) specifies that information about the notice or summons must not be disclosed.

(3) A person does not contravene this section if—

- (a) the disclosure is made to an employee, agent or other person in order to obtain information to comply with the notice or summons and the employee, agent or other person is directed not to inform the person to whom the information relates about the matter; or
- (b) the disclosure is made to obtain legal advice or representation in relation to the notice or summons; or
- (c) the disclosure is made for the purposes of, or in the course of, legal proceedings.

(4) A reference in this section to the disclosure of any information about a notice or summons includes a reference to—

- (a) a disclosure about the existence or nature of the notice or summons or of the investigation to which it relates; and
- (b) a disclosure of any information to a person from which the person could reasonably be expected to infer the existence or nature of the notice or summons or of the investigation to which it relates.

(18) Section 31 (Annual report)—

Section 31 (2) (b)—

After “drug trafficking”, insert “and organised and other crime”.

(19) Section 38 (Cessation of operation of Act)—

Omit the section.

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SCHEDULE 1—AMENDMENTS—*continued*

- (20) Schedule 1 (**Provisions relating to the Members of the Commission**)—
- (a) Clause 4 (3) (**Remuneration**)—
Omit “The part-time member”, insert instead “A part-time member”.
- (b) Clause 7 (1) (c) (**Casual vacancies**)—
Omit “the part-time member”, insert instead “a part-time member”.
- (c) Clause 9 (2), (3) (**Effect of certain other Acts**)—
Omit “the part-time member” wherever occurring, insert instead “a part-time member”.
- (21) Schedule 2 (**Provisions relating to the Procedure of the Commission**)—
Omit clause 2, insert instead:
- Quorum**
2. The quorum for a meeting of the Commission is a majority of members for the time being of the Commission, but not fewer than 2 members.

SCHEDULE 2—SAVINGS

(Sec. 4)

Members holding office immediately before commencement

1. An amendment made to the State Drug Crime Commission Act 1985 by this Act does not affect the appointment, or the term of office, of any member of the State Drug Crime Commission or the State Drug Crime Commission Management Committee holding office immediately before the commencement of the amendment.

References to relevant drug activities

2. On and from the commencement of Schedule 1 (2) (d), a reference in any document to a relevant drug activity shall be read as a reference to a relevant criminal activity.

[*Minister's second reading speech made in—
Legislative Council on 16 November 1988
Legislative Assembly on 29 November 1988*]
