

**INDEPENDENT COMMISSION AGAINST CORRUPTION  
(AMENDMENT) ACT 1991 No. 54**

**NEW SOUTH WALES**



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**INDEPENDENT COMMISSION AGAINST CORRUPTION  
(AMENDMENT) ACT 1991 No. 54**

NEW SOUTH WALES



**Act No. 54, 1991**

An Act to amend the Independent Commission Against Corruption Act 1988 in relation to hearings conducted by the Commission, the giving of legal or financial assistance to witnesses, and the furnishing by the Commission of evidence or information to authorities; and for other purposes. [Assented to 11 December 1991]

*Independent Commission Against Corruption (Amendment) 1991*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Independent Commission Against Corruption (Amendment) Act 1991.

**Commencement**

2. This Act commences on the date of assent.

**Amendment of Independent Commission Against Corruption Act 1988 No. 35**

3. The Independent Commission Against Corruption Act 1988 is amended as set out in Schedule 1.

**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

**(1) Section 14 (Other functions of Commission):**

(a) Omit section 14 (1) (b), insert instead:

(b) to furnish other evidence obtained in the course of its investigations (being evidence that may be admissible in the prosecution of a person for a criminal offence against a law of another State, the Commonwealth or a Territory) to the Attorney General or to the appropriate authority of the jurisdiction concerned.

(b) After section 14 (1), insert:

(1A) Evidence of the kind referred to in subsection (1) (b) may be accompanied by any observations that the Commission considers appropriate and (in the case of evidence furnished to the Attorney General) recommendations as to what action the Commission considers should be taken in relation to the evidence.

(1B) A copy or detailed description of any evidence furnished to the appropriate authority of another jurisdiction, together with a copy of any accompanying observations, is to be furnished to the Attorney General.

(c) Omit section 14 (2), insert instead:

(2) If the Commission obtains any information in the course of its investigations relating to the exercise of the functions of a public authority, the Commission may, if it considers it desirable to do so

*Independent Commission Against Corruption (Amendment) 1991*

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SCHEDULE 1—AMENDMENTS—*continued*

- (a) furnish the information or a report on the information to the authority or to the Minister for the authority; and
- (b) make to the authority or the Minister for the authority such recommendations (if any) relating to the exercise of the functions of the authority as the Commission considers appropriate.

(2A) A copy of any information or report furnished to a public authority under subsection (2), together with a copy of any such recommendation, is to be furnished to the Minister for the authority.

(2) Section 31:

Omit the section, insert instead:

**Public and private hearings**

31. (1) A hearing may be held in public or in private, or partly in public and partly in private, as decided by the Commission.

(2) Without limiting the above, the Commission may decide to hear closing submissions in private. This extends to a closing submission by a person appearing before the Commission or by a legal practitioner representing such a person, as well as to a closing submission by a legal practitioner assisting the Commission as counsel.

(3) In reaching these decisions, the Commission is obliged to have regard to any matters which it considers to be related to the public interest.

(4) The Commission may give directions as to the persons who may be present at a hearing when it is being held in private. A person must not be present at a hearing in contravention of any such direction.

(3) Section 33A:

After section 33, insert:

**Groups and unincorporated associations**

33A. (1) A group or unincorporated association may be authorised to appear at a hearing or authorised or required to give evidence at a hearing.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Accordingly, references in sections 32 and 33, and in other provisions of this Act, to a “person” extend for this purpose to a group or unincorporated association.

(3) However, this section does not affect the application in any other context of the principle that a reference to a word in the singular form includes a reference to the word in the plural form.

(4) Section 52:

Omit the section, insert instead:

**Legal and financial assistance**

52. (1) A witness who is appearing or about to appear before the Commission may apply to the Attorney General for legal or financial assistance.

(2) The Attorney General may approve the provision of legal or financial assistance to the applicant if of the opinion that this is appropriate, having regard to any one or more of the following:

- (a) the prospect of hardship to the witness if assistance is declined;
- (b) the significance of the evidence that the witness is giving or appears likely to give;
- (c) any other matter relating to the public interest.

(3) On giving the approval, the Attorney General may authorise the provision to the witness of legal or financial assistance determined by the Attorney General in respect of the witness’s appearance before the Commission. The assistance is to be provided out of money provided by Parliament for the purpose.

(4) The assistance may be provided unconditionally or subject to conditions determined by the Attorney General.

(5) Section 68A:

After section 68, insert:

**Procedure if Parliament not in session**

68A. (1) If a House of Parliament is not sitting when the Joint Committee seeks to furnish a report to it, the Committee may present copies of the report to the Clerk of the House.

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SCHEDULE 1—AMENDMENTS— *continued*

- (2) The report:
- (a) on presentation and for all purposes is taken to have been laid before the House; and
  - (b) may be printed by authority of the Clerk; and
  - (c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House; and
  - (d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the report by the Clerk.

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*[Minister's second reading speech made in—  
Legislative                    on 23 October 1991  
Legislative Council on 4 December 1991]*