



New South Wales

Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014 No 86

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Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014 No 86

Act No 86, 2014

An Act to amend the *Ombudsman Act 1974* with respect to the giving of evidence; and to amend the *Public Interest Disclosures Act 1994* with respect to reporting requirements and the referral of matters. [Assented to 28 November 2014]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014*.

2 Commencement

- (1) Schedule 1 to this Act commences on 5 March 2015.
- (2) Schedule 2 to this Act commences on the date of assent to this Act.

3 Explanatory notes

The matter appearing under the heading “Explanatory note” in the Schedules does not form part of this Act.

Schedule 1 Amendment of Ombudsman Act 1974 No 68

Section 35 Ombudsman, officer or expert as witness

Omit section 35 (3). Insert instead:

- (3) Subsection (1) applies to the following persons in the same way as it applies to the Ombudsman and officers of the Ombudsman:
 - (a) a former Ombudsman,
 - (b) a former officer of the Ombudsman,
 - (c) an Australian legal practitioner who is or was appointed under section 19 (4) to assist the Ombudsman,
 - (d) a person whose services are or were engaged under section 23.
- (4) Subsection (3) extends to information obtained by those persons before its substitution by the *Ombudsman and Public Interest Disclosures Legislation Amendment Act 2014*.
- (5) The Committee on the Ombudsman, the Police Integrity Commission and the Crime Commission is to review the operation of subsections (3) and (4) as soon as possible after 5 March 2016.

Explanatory note

The proposed amendment to the *Ombudsman Act 1974* ensures that former office holders (including the Ombudsman), experts formerly engaged to assist the Ombudsman and Australian legal practitioners appointed or formerly appointed to assist the Ombudsman cannot give evidence or produce any document in legal proceedings in respect of any information obtained in the course of office or service with the Ombudsman. At present, current office holders and experts currently engaged to assist the Ombudsman cannot give such evidence or produce such documents in legal proceedings.

Schedule 2 Amendment of Public Interest Disclosures Act 1994 No 92

[1] Section 6CA Reports to Ombudsman by public authorities

Insert after section 6CA (4):

- (4A) The regulations may exempt any specified public authority (or any specified class of public authorities) from the requirements of this section.

[2] Section 25 Referral of disclosures by investigating authorities

Omit “An investigating authority referring a matter to another investigating authority may enter into arrangements with the other authority:” from section 25 (7).

Insert instead “Despite any other Act or law (including section 22), an investigating authority referring, or considering whether to refer, a matter to another investigating authority may exchange information or enter into arrangements (or both) with the other authority:”.

[3] Section 31 Reports to Parliament by public authorities

Insert after section 31 (3):

- (3A) The regulations may exempt any specified public authority (or any specified class of public authorities) from the requirements of this section.

Explanatory note

Items [1] and [3] of the proposed amendments to the *Public Interest Disclosures Act 1994* enable regulations under the Act to exempt specified public authorities (or specified classes of public authorities) from requirements to provide reports to the Ombudsman and to Parliament about the public authority’s obligations under the Act.

Item [2] enables an investigating authority referring, or considering whether to refer, a matter to another investigating authority to exchange information or enter into arrangements with the other investigating authority. In particular, the investigating authority may exchange information or enter into arrangements with the other authority to avoid duplication of action, to allow the efficient and effective use of both authorities’ resources and to ensure that action is taken in a manner providing the most effective result.

[Second reading speech made in—

Legislative Assembly on 5 November 2014

Legislative Council on 18 November 2014]