

Passed by both Houses



New South Wales

Independent Commission Against Corruption Amendment (Validation) Bill 2015

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I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney,*

, 2015



New South Wales

Independent Commission Against Corruption Amendment (Validation) Bill 2015

Act No , 2015

An Act to amend the *Independent Commission Against Corruption Act 1988* to validate certain previous actions of the Independent Commission Against Corruption.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Independent Commission Against Corruption Amendment (Validation) Act 2015*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35

Schedule 4 Savings, transitional and other provisions

Insert at the end of the Schedule:

Part 13 Validation relating to decision on 15 April 2015 in Independent Commission Against Corruption v Cunneen [2015] HCA 14

34 Interpretation

- (1) In this Part:
relevant conduct means conduct that would be corrupt conduct for the purposes of this Act if the reference in section 8 (2) to conduct that adversely affects, or could adversely affect, the exercise of official functions included conduct that adversely affects, or could adversely affect, the efficacy (but not the probity) of the exercise of official functions.
- (2) A reference in this Part to anything done or purporting to have been done by the Commission includes a reference to:
 - (a) anything done or purporting to have been done by an officer of the Commission, and
 - (b) any investigation, examination, inquiry, hearing, finding, referral, recommendation or report conducted or made by the Commission or an officer of the Commission, and
 - (c) any order, direction, summons, notice or other requirement made or issued by the Commission or an officer of the Commission, and
 - (d) the obtaining or receipt of anything by the Commission or an officer of the Commission.
- (3) A reference in this Part to evidence given to the Commission includes a reference to:
 - (a) a statement of information, or a document or other thing, produced in response to a notice by the Commission or an officer of the Commission, and
 - (b) an answer made, or a document or other thing produced, by a person summoned to attend or appearing before the Commission or an officer of the Commission at a compulsory examination or public inquiry, and
 - (c) any information, document or other thing otherwise obtained or received by the Commission or an officer of the Commission.

35 Validation

- (1) Anything done or purporting to have been done by the Commission before 15 April 2015 that would have been validly done if corrupt conduct for the purposes of this Act included relevant conduct is taken to have been, and always to have been, validly done.
- (2) The validation under subclause (1) extends to the validation of:
 - (a) things done or purporting to have been done by any person or body, and

- (b) legal proceedings and matters arising in or as a result of those proceedings,
if their validity relies on the validity of a thing done or purporting to have been done by the Commission.
- (3) The validation under subclause (1) extends to the validation of things on and from the date they were done or purported to have been done.
- (4) The Commission is authorised (and is taken always to have been authorised) to exercise functions under this Act on or after 15 April 2015 to refer matters for investigation or other action to other persons or bodies, or to communicate or provide evidence given to the Commission to other persons or bodies, even if the matter arose or the evidence was given to the Commission before 15 April 2015 and its validity relies on the validation under subclause (1).
- (5) Subclause (4) applies even if any finding of corrupt conduct that relates to the matter or evidence is declared a nullity or otherwise set aside by a court.
- (6) However, a person is not (and was not) required to comply, on and after 15 April 2015, with any order, direction, summons, notice or other requirement made or issued by the Commission or an officer of the Commission before 15 April 2015 if the validity of the order, direction, summons, notice or other requirement relies on the validation under subclause (1).