



New South Wales

Crime Commission Legislation Amendment Bill 2014

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Crime Commission Act 2012* (*the Principal Act*) so as:

- (a) to address issues raised in decisions of the High Court in connection with the compulsory examination of persons about an offence for which they have been charged, and
- (b) to provide for the referral for investigation, and oversight, by the New South Wales Crime Commission Management Committee (the *Management Committee*) of the New South Wales Crime Commission (the *Commission*) of matters arising from work done in co-operation with a person or authority of the Commonwealth, the State or another State or Territory (including a task force or a member of a task force) (an *external person or authority*), and
- (c) to make other amendments relating to the procedures of the Commission, including in relation to search warrants, hearings and annual reports, and
- (d) to provide for savings and transitional matters consequent on the enactment of the proposed Act.

The Bill also amends the *Crimes (Appeal and Review) Act 2001* to limit appeals arising from compulsory examination of a person or the giving of evidence, or the production of a document or thing, under the Principal Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 Amendment of Crime Commission Act 2012 No 66—provisions relating to compulsory examinations

The High Court in various cases raised issues in connection with the compulsory examination by the Commission of persons about offences for which they have already been charged or are later charged. The principal cases in the High Court are *X7 v Australian Crime Commission & Anor* (2013) 248 CLR 92 and *Do Young (aka Jason) Lee v The Queen* [2014] HCA 20. In *X7 v Australian Crime Commission & Anor* (2013) 248 CLR 92, the High Court considered the accusatorial nature of criminal trials and determined that any fundamental change in that system, such as the compulsory examination, prior to and outside the trial process, of a person charged with an offence about matters relevant to that charge, should be expressly effected by legislation. In *Do Young (aka Jason) Lee v The Queen* [2014] HCA 20, the High Court ordered the retrial of offences in a case where transcripts of evidence given by a defendant during a compulsory examination in a hearing before the Commission were given to the prosecution to aid in its preparation for trial. The decision in that case was based on the principle that proof by the prosecution, unaided by the accused, is fundamental to the criminal justice system.

The amendments made by the Schedule address issues raised in both cases relating to persons charged with an offence where that offence has not been finally dealt with or determined (a *current charge*).

Limitations on presence of other persons at compulsory examinations

Schedule 1 [2] makes it clear that a person is taken to be present at a hearing even though the person is not physically present if, while the hearing is occurring, the person can view and hear (or understand) it from a concealed position or remotely by closed circuit television or similar means or can hear (or understand) it by electronic or other means.

Schedule 1 [4] requires the Commission to give prior notice to a witness of a proposed direction that another person may be present while the witness is giving evidence at a hearing and to give the witness an opportunity to comment on the proposed direction. An adverse comment by the witness will not result in the other person not being entitled to be present.

Schedule 1 [5] prevents the Commission from giving a direction that another person may be present if the hearing involves a person who is the subject of a current charge for an offence unless the Commission is of the opinion that the presence of the other person is reasonably necessary to exercise its functions. The amendment also prohibits the Commission from giving a direction that a person who is a member of an investigative agency involved in investigating a person who has been charged with an offence may be present while the person is being questioned about the subject matter of the offence. **Schedule 1 [3]** makes a consequential amendment.

Evidence of accused persons

Schedule 1 [6] prohibits a person who is the subject of a current charge from being compulsorily examined by, or from being required to produce a document or thing to, the Commission except in accordance with the leave of the Supreme Court. Leave may only be granted if the Court is satisfied that any prejudicial effect likely to arise to the person's trial is outweighed by the public interest in having the matter referred to the Commission fully investigated. Evidence that is obtained from the person after leave is granted cannot be used against the person in any civil, criminal or disciplinary proceeding (other than for an offence against the Principal Act or an offence relating to falsity of evidence) but is not inadmissible as against other persons. Notice that leave has been granted is to be given to the person by the Commission. The general functions and procedures of the Supreme Court relating to ex parte proceedings will apply in respect of ex parte applications for leave.

Schedule 1 [7] provides for evidence (*derivative evidence*) that is obtained as a result of original evidence obtained by the questioning of a witness at a hearing of the Commission or the production of a document or thing to the Commission to be admissible in a civil or criminal proceeding, despite specified grounds on which it might otherwise be inadmissible. However, this does not extend to making any derivative evidence admissible against a person questioned in relation to the subject matter of the offence for which the person was charged unless the derivative evidence could have been obtained (or its significance understood) without the testimony of the person.

Schedule 1 [8] enables a person subject to a current charge in respect of whom leave to be examined has been given by the Supreme Court to apply to the Attorney General for assistance in respect of an application for a review of the decision.

Disclosure of evidence

Schedule 1 [9] and [10] require the Commission to make evidence given before the Commission available to a court if the court certifies that it may be in the interests of justice that the evidence be made available to the prosecutor even though the Commission has directed that the evidence must not be published so as not to prejudice the fair trial of a person who has been charged with an offence. The court may, after examining the evidence, make the evidence available to the prosecutor if the court is satisfied that the interests of justice require it to do so.

Schedule 1 [11] makes it clear that the provisions relating to publication of evidence are subject to the new restrictions on disclosure of evidence inserted by the proposed Act.

Schedule 1 [12] prohibits the Commission from allowing evidence as to the subject matter of an offence that is given by a person the subject of a current charge for the offence who objected to providing the evidence to be disclosed to a member of an investigative agency or a prosecutor involved in investigating or prosecuting the offence. The Commission may direct that evidence be disclosed to a member of an investigative agency for use in investigation or prosecution of offences under the Principal Act relating to false evidence by the witness, an offence other than the offence concerned or offences by another person, if the Commission considers it desirable in the interests of justice to do so and the witness was informed of the power to make such a direction. Evidence may also be disclosed to the Director of Public Prosecutions for the purposes of a request by the Director of Public Prosecutions to the Attorney General to grant indemnity from prosecution or of giving advice about undertakings relating to the use of evidence, both in relation to persons who give evidence when subject to a current charge and persons who are charged after giving evidence.

Schedule 1 [12] also sets out matters that a court must consider when considering an application for a stay of proceedings arising from the compulsory examination of a person before the Commission or a disclosure of evidence or a record of evidence given before the Commission. It further provides that the fact that the Commission examined the person about the subject matter of an offence (whether or not the person was the subject of a current charge for the offence), or that a transcript or record of the proceedings was given to an investigative agency or a prosecutor whether before or after the person was charged with the offence, is not capable of giving rise to a presumption that there is a fundamental defect in criminal proceedings. Other matters are also excluded from being sufficient grounds for a stay, including the fact that evidence has been derived from the holding of a hearing or from the dissemination of a record of a hearing.

Other amendments

Schedule 1 [1] inserts definitions.

Schedule 1 [2] defines when a person is the subject of a current charge.

Schedule 1 [13] inserts savings and transitional provisions consequent on the enactment of the proposed Act, including a provision that applies the new provisions relating to stays of proceedings to both proceedings, and applications for stays, pending before the commencement of the provisions.

Schedule 2 Amendment of Crime Commission Act 2012 No 66—provisions relating to working with interstate and Commonwealth persons or authorities and other matters

Referrals relating to work in co-operation with external persons or authorities, including joint task forces

Schedule 2 [6] confers on the Management Committee the function of referring (by written notice) to the Commission for investigation matters (*joint task matters*) relating to the subject of co-operation with an external person or authority. **Schedule 2 [7]** makes a consequential amendment.

Schedule 2 [8] sets out the matters about which the Management Committee must be satisfied before it can refer a joint task matter to the Commission for investigation.

Schedule 2 [9] enables the Management Committee to impose limitations on the investigation by the Commission of joint task matters.

Schedule 2 [10] sets out the matters that must be contained in a notice by the Management Committee referring a joint task matter to the Commission for investigation. **Schedule 2 [5]** makes a consequential amendment.

Schedule 2 [11] enables the Commission to request the Management Committee to refer a joint task matter to the Commission for investigation.

Schedule 2 [12] makes it clear that the parliamentary Joint Committee that monitors and reports on the exercise by the Management Committee of its functions is not authorised to reconsider a decision by the Management Committee to refer a joint task matter to the Commission for investigation.

Miscellaneous amendments

Schedule 2 [1] enables the Commission, in accordance with any guidelines of the Management Committee, to disseminate intelligence and information to bodies of other countries if the Commission thinks it appropriate to do so.

Schedule 2 [2] revises the grounds on which an executive officer of the Commission may apply for a search warrant. The new grounds will be that the Commission has reasonable grounds to suspect that there is or will be within one month in or on premises things connected with an investigation or that may be used in relevant proceedings and that the Commission has reasonable grounds to believe that, if a summons for production were issued, the things might be concealed, lost, mutilated or destroyed.

Schedule 2 [3] extends the procedure for Supreme Court review that currently applies to a decision by the Commission that a person is not entitled to refuse to produce information or answer a question under a summons issued by an executive officer to a decision to that effect made by the Commission where a person claims to be entitled not to take an oath or affirmation or to answer questions or to produce a document or thing at a hearing of the Commission. The person may apply for a review within 5 days after being notified of the decision.

Schedule 2 [4] prohibits a prosecution from being commenced in respect of a failure to take an oath or affirmation or to answer questions or to produce a document or thing at a hearing of the Commission, if the person has claimed to be entitled not to do so, until after the period for applying for a Supreme Court review or, if an application is made, until after it is determined or otherwise disposed of.

Schedule 2 [13] enables the Commission to waive the requirement for a consultant, or members of a class of consultants, engaged by the Commission to provide a statement of financial information.

Schedule 2 [14] and [15] replace the mandatory requirement for the Commission to include all recommendations that it has for legislative changes in its annual report with a discretion to include any such recommendations in its annual report.

Schedule 3 Amendment of Crimes (Appeal and Review) Act 2001 No 120—provisions relating to compulsory examinations before the Crime Commission

Schedule 3 [1] prohibits the Supreme Court from directing that an inquiry be held into the conviction or sentence of a person, or that a matter be referred to the Court of Criminal Appeal to be dealt with as an appeal, if the grounds for the direction or appeal arise only from the fact that the person was questioned at a hearing of the Commission or required to produce a document or thing to the Commission or that evidence was obtained directly or as a result of that questioning or the production of the document or thing.

Schedule 3 [2] applies that prohibition to applications to the Supreme Court for a direction or referral that were pending before the commencement of the amendment made by **Schedule 3 [1]** and to any application to, or action on its own motion by, the Supreme Court relating to a proposed direction or referral on or after that commencement. The amendment also extends the application of the amendments to evidence obtained, or documents or things produced, under the *New South Wales Crime Commission Act 1985*.



New South Wales

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New South Wales

Crime Commission Legislation Amendment Bill 2014

No. , 2014

A Bill for

An Act to amend the *Crime Commission Act 2012* with respect to the Crime Commission's powers to obtain evidence by way of compulsory examinations and the disclosure of evidence so obtained by the Commission, investigations by the Crime Commission in co-operation with external persons and authorities and other miscellaneous matters; and to amend the *Crimes (Appeal and Review) Act 2001* to limit certain appeals relating to Crime Commission examinations and evidence.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Crime Commission Legislation Amendment Act 2014*.

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2 Commencement

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

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Schedule 1	Amendment of Crime Commission Act 2012	1
	No 66—provisions relating to compulsory examinations	2
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[1] Section 4 Interpretation		4
Insert in alphabetical order in section 4 (1):		5
<i>current charge</i> —see subsection (1B).		6
<i>member of an investigative agency</i> includes an officer or employee of, or any person otherwise engaged by or acting for or on behalf of, an investigative agency.		7
<i>prosecutor</i> means:		8
(a) the Director of Public Prosecutions or a delegate of the Director of Public Prosecutions, or		9
(b) a police officer, or		10
(c) any other person acting in a public official capacity or a private capacity,		11
who is responsible for the conduct of a prosecution, and includes a reference to an Australian legal practitioner representing a person referred to in paragraphs (a)–(c).		12
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[2] Section 4 (1A) and (1B)		19
Insert after section 4 (1):		20
(1A) For the purposes of this Act, a person who is not physically present at a hearing or a part of a hearing before the Commission is taken to be present at a hearing or a part of a hearing if either:		21
(a) the person:		22
(i) views the hearing or part of the hearing, while it is occurring, by observing it from a concealed position (such as behind a glass partition), or by means of closed circuit television, or by any other means, and		23
(ii) can hear or otherwise understand anything being said or demonstrated while viewing the hearing or the part of the hearing, or		24
(b) the person hears or otherwise understands anything being said or demonstrated during the hearing or part of the hearing, while it is occurring, by means of an electronic system or by any other means, without viewing it.		25
(1B) For the purposes of this Act, a person is the subject of a <i>current charge</i> for an offence if:		26
(a) the person has been charged with the offence and the charge has not been withdrawn, and		27
(b) any proceedings for the offence or any appeal against a court’s decision on the offence are pending or not concluded, and		28
(c) the time for making any appeal or further appeal against a court’s decision on the offence has not expired or the appeal has not been withdrawn, and		29
(d) a court has not made an order having the effect of granting a permanent stay of proceedings for the offence or any order so made ceases to have that effect.		30
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[3] Section 21 Hearings to be held in private	1
Insert “(subject to section 21A)” after “may” where firstly occurring in section 21 (1).	2
[4] Section 21 (4) and (5)	3
Insert at the end of section 21:	4
(4) A direction must not be given under subsection (1) permitting a person to be present during a hearing or part of a hearing while a witness is giving evidence, unless before the direction is given:	5
(a) the witness is informed that it is proposed that the person be present, and	6
(b) the witness has an opportunity to comment on the person being present.	7
(5) To avoid doubt, a person does not cease to be entitled to be present at a hearing or a part of the hearing if:	8
(a) the Commission fails to comply with subsection (4), or	9
(b) a witness comments adversely on the presence of the person under subsection (4) (b).	10
[5] Section 21A	11
Insert after section 21:	12
21A Provisions relating to directions as to presence at hearings	13
(1) This section applies where a hearing before the Commission involves a person (the <i>charged person</i>) who is the subject of a current charge for an offence.	14
(2) A direction must not be given under section 21 for a person to be present during any part of the hearing that involves the charged person, unless the Commission or person presiding at the Commission is of the opinion that the presence of the first mentioned person is reasonably necessary to assist the Commission to exercise its functions properly.	15
(3) A direction must not be given under section 21 for a person to be present at any part of the hearing while the charged person is being questioned about the subject matter of the offence, if the first mentioned person is a member of an investigative agency and is involved in the investigation of the charged person in relation to the offence.	16
[6] Part 2, Division 6A	17
Insert after Division 6 of Part 2:	18
Division 6A Evidence of accused persons	19
35A Leave of Supreme Court to take evidence from accused person about the offence	20
(1) This section applies to a person who is the subject of a current charge for an offence, and relates to the taking of evidence from the person in relation to the subject matter of the offence.	21
(2) The person cannot be:	22
(a) questioned under section 24 at a hearing before the Commission, or	23
(b) required under section 24 or 29 to produce a document or thing, in relation to matters relating to the subject matter of the offence without the leave of the Supreme Court.	24

(3)	Evidence obtained pursuant to leave granted for the purposes of this section cannot be used against the person in any civil or criminal proceeding (other than a proceeding for an offence against this Act or an offence relating to the falsity of evidence given by the witness) or in any disciplinary proceeding, but is not inadmissible as against other persons. Note. See section 39A (3) and (4) for derivative evidence.	1 2 3 4 5 6
(4)	The Commission may apply to the Supreme Court <i>ex parte</i> for leave supported by an affidavit of an officer of the Commission stating:	7 8
	(a) that the officer:	9
	(i) believes that the questioning or requirement is in the public interest notwithstanding that the questioning or requirement relates or may relate to the subject matter of the offence, and	10 11 12
	(ii) suspects that the questioning or requirement is necessary to fully investigate the matter referred to in the copy of a notice accompanying a summons issued to the person, and	13 14 15
	(b) the grounds on which the belief and suspicion are based.	16
(5)	The Supreme Court may grant leave if it is satisfied that any prejudicial effect that is likely to arise to the person's trial from the proposed questioning or requirement is outweighed by the public interest in using the Commission's powers to ensure that a matter referred to in the copy of a notice accompanying a summons issued to the person is fully investigated.	17 18 19 20 21
(6)	Leave may be granted unconditionally or subject to conditions imposed by the Supreme Court.	22 23
(7)	If leave is granted, the Commission must, before the person is questioned in relation to matters the subject of the grant of leave, serve on the person notice of the grant of leave.	24 25 26
(8)	The notice must inform the person of any right under another law to seek a review of the grant of leave and of the right to make an application for assistance under section 42.	27 28 29
(9)	Nothing in this section limits the application to an application for leave of any of the functions and procedures of the Supreme Court in relation to proceedings that may be dealt with <i>ex parte</i> before that Court.	30 31 32
[7] Section 39A		33
	Insert after section 39:	34
39A Derivative evidence		35
(1)	Any further information, evidence, document or thing (the <i>derivative evidence</i>) obtained as a result of:	36 37
	(a) the questioning under section 24 of a witness at a hearing before the Commission, or	38 39
	(b) the production under section 24 or 29 of a document or thing, (the <i>original evidence</i>) is not inadmissible in any civil or criminal proceeding or in any disciplinary proceeding.	40 41 42
(2)	Without limiting subsection (1), the derivative evidence is not inadmissible on the ground:	43 44
	(a) that the original evidence had to be given or produced, or	45
	(b) that the original evidence might incriminate the witness, or	46

(c)	that the witness was questioned (or required to produce the document or thing) in relation to the subject matter of the offence for which the witness was charged before the charge was laid, or	1 2 3
(d)	that the original evidence was obtained at a hearing when the witness was questioned (or required to produce the document or thing) pursuant to leave granted for the purposes of section 35A in relation to a particular offence and the original evidence related to another offence, being an offence with which the witness was not yet charged.	4 5 6 7 8
(3)	The derivative evidence is not admissible against the witness where the witness was questioned (or required to produce the document or thing) pursuant to leave granted for the purposes of section 35A in relation to the subject matter of the offence for which the witness was charged.	9 10 11 12
(4)	However, an exception under subsection (3) does not apply if the derivative evidence could have been obtained (or its significance understood) without the testimony of the witness.	13 14 15
(5)	Nothing in this section affects the operation of section 39.	16
[8]	Section 42 Legal and financial assistance	17
	Insert after section 42 (2):	18
(2A)	A person who proposes to make, or has made, an application for the review under another law of a decision of the Supreme Court to grant leave under section 35A may make an application to the Attorney General for the provision of assistance under this section in respect of the application for review.	19 20 21 22 23
[9]	Section 45 Publication or disclosure of evidence	24
	Insert “and to the prosecutor” after “the person” where secondly occurring in section 45 (4) (b).	25 26
[10]	Section 45 (5)	27
	Insert “and to the prosecutor” after “the person” where secondly occurring.	28
[11]	Section 45 (6) and (7)	29
	Insert after section 45 (5):	30
(6)	This section has effect subject to section 45A.	31
(7)	In this section: <i>publish</i> includes:	32 33
(a)	disclose to a person, and	34
(b)	in relation to evidence or a record of evidence—disclose any information directly contained in or implied from that evidence or record, except where the information could be obtained elsewhere.	35 36 37
[12]	Sections 45A–45C	38
	Insert after section 45:	39
45A	Disclosure of evidence of accused about offence for which charged	40
(1)	This section applies where:	41
(a)	evidence involving the subject matter of an offence (the <i>offence concerned</i>) is given before the Commission, and	42 43

(b)	the evidence was provided by a person (the <i>witness</i>) who is at that time the subject of a current charge for the offence concerned, and	1 2
(c)	the witness objected to providing the evidence.	3
(2)	The Commission must not allow any of the evidence or a record of any of the evidence to be disclosed to a member of an investigative agency or a prosecutor if the member of the agency or the prosecutor is involved in the investigation or prosecution of the offence concerned.	4 5 6 7
(3)	Subject to subsection (2), the Commission may direct any of the evidence or a record of any of the evidence to be disclosed to a member of an investigative agency, if:	8 9 10
(a)	the Commission considers the disclosure is desirable in the interests of justice, and	11 12
(b)	the Commission restricts the use of the disclosed evidence or record of evidence so that it is used only in the investigation or prosecution of:	13 14
(i)	the witness for an offence against a provision of this Act or an offence related to the falsity of the evidence given by the witness, or	15 16 17
(ii)	the witness for an offence, other than the offence concerned, or	18
(iii)	a person other than the witness, and	19
(c)	before the evidence was given, the Commission informed the witness of the Commission's power to direct disclosure to a member of an investigative agency under this subsection.	20 21 22
(4)	Despite subsection (2), the Commission may direct any of the evidence or a record of any of the evidence to be disclosed to the Director of Public Prosecutions for the purposes of:	23 24 25
(a)	a request or advice to the Attorney General in respect of granting the witness indemnity from prosecution in relation to the matter the subject of the current charge, or	26 27 28
(b)	advice to the Attorney General on a proposed undertaking by the Attorney General under section 33 of the <i>Criminal Procedure Act 1986</i> in relation to the evidence.	29 30 31
(5)	The Commission may make orders placing restrictions or further restrictions on the further disclosure of any evidence or record of evidence allowed to be disclosed under subsection (3) or (4).	32 33 34
(6)	A person must not make a disclosure in contravention of an order made under subsection (5). Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.	35 36 37
(7)	A reference in this section to the disclosure of evidence or a record of evidence includes a reference to disclosure of any information directly contained in or implied from that evidence or record, except where the information could be obtained elsewhere.	38 39 40 41
45B	Disclosure of evidence to DPP for indemnities and undertakings	42
	The Commission may direct any of the evidence or a record of any of the evidence given before the Commission by a person in relation to a matter	43 44

about which the person was subsequently charged with an offence to be disclosed to the Director of Public Prosecutions for the purposes of:	1 2
(a) a request or advice to the Attorney General in respect of granting the person indemnity from prosecution in relation to the matter the subject of the charge, or	3 4 5
(b) advice to the Attorney General on a proposed undertaking by the Attorney General under section 33 of the <i>Criminal Procedure Act 1986</i> in relation to the evidence.	6 7 8
45C Stay of proceedings	9
(1) This section applies when a court is considering an application for a stay of proceedings arising from the compulsory examination of a person before the Commission or from the disclosure of any evidence or a record of any evidence given before the Commission.	10 11 12 13
(2) The court must consider whether any of the following matters (whether individually or in any combination and without limitation) have led, or have a real potential to lead, to unfair consequences for a person's trial for an offence:	14 15 16
(a) the questions asked and answers given during the hearing concerned,	17
(b) whether the person was the subject of a current charge for the offence at the time of the hearing,	18 19
(c) the role of any member of an investigative agency attending the hearing in the investigation of the offence,	20 21
(d) the nature and results of any steps taken by members of an investigative agency in the investigation as a result of access (if any) to compulsorily obtained material,	22 23 24
(e) the availability of independent sources of any evidence alleged to be derived from compulsorily obtained material,	25 26
(f) the extent to which any prosecutor has had access to compulsorily obtained material,	27 28
(g) the role in the investigation of the offence of any member of an investigative agency who has been given access to a transcript or other record of evidence.	29 30 31
(3) None of the following matters is capable of giving rise to a presumption that there is a fundamental defect in criminal proceedings against a person for an offence in respect of which the Commission has exercised any of its powers:	32 33 34
(a) the fact that the Commission examined the person about the subject matter of the offence, whether or not the person was the subject of a current charge for the offence,	35 36 37
(b) the fact that a transcript or other record of proceedings before the Commission was given to an investigative agency, whether before or after the person was charged with the offence,	38 39 40
(c) the fact that a transcript or other record of proceedings before the Commission was given to a prosecutor, whether before or after the person was charged with the offence,	41 42 43
(d) the fact that a transcript or other record of proceedings before the Commission was given to a prosecutor of another offence,	44 45
(e) the fact that there has been a failure to comply with section 21A (3),	46
(f) the fact that another person has been examined by the Commission,	47

(g)	in the case of an offence against this Act or an offence relating to the falsity of evidence—the fact that a transcript or other record of proceedings before the Commission was given to an investigative agency or prosecutor at any time,	1 2 3 4
(h)	the fact that evidence has been derived from the holding of a hearing or from the dissemination of a record or other record of a hearing.	5 6
[13]	Schedule 4 Savings, transitional and other provisions	7
	Insert after Part 3:	8
	Part 4 Provisions relating to Crime Commission Legislation Amendment Act 2014	9 10
12	Presence at hearing before Commission	11
	Section 4 (1A), as inserted by the <i>Crime Commission Legislation Amendment Act 2014</i> , is declared to be for the avoidance of doubt and is accordingly taken to have always been in force.	12 13 14
13	Stay of proceedings	15
(1)	Section 45C applies in relation to proceedings pending immediately before the commencement of that section, as well as to proceedings commenced on or after the commencement of that section.	16 17 18
(2)	Section 45C applies in relation to applications pending immediately before the commencement of that section for a stay of proceedings, as well as to applications for a stay of proceedings made on or after the commencement of that section.	19 20 21 22
(3)	Section 45C applies to acts or omissions relating to proceedings held, or evidence obtained, under the <i>New South Wales Crime Commission Act 1985</i> in the same way as it applies to proceedings held, or evidence obtained, under this Act.	23 24 25 26

Schedule 2	Amendment of Crime Commission Act 2012	1
	No 66—provisions relating to working with	2
	interstate and Commonwealth persons or	3
	authorities and other matters	4
[1]	Section 13 Liaison with other bodies	5
	Insert “or country” after “Territory” in section 13 (a).	6
[2]	Section 17 Search warrants	7
	Omit section 17 (1). Insert instead:	8
	(1) An executive officer may apply to an authorised officer for the issue of a search warrant if:	9
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	(a) the Commission has reasonable grounds for suspecting that there is, or within one month may be, in or on any premises things of a relevant kind, and	11
		12
	(b) the Commission believes on reasonable grounds that, if a summons were issued for the production of the things, the things might be concealed, lost, mutilated or destroyed.	13
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[3]	Section 33 Applications to Supreme Court for review of Commission’s decisions concerning entitlement to refuse to take oath or affirmation, produce documents or things or answer questions	17
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	Insert at the end of section 33 (1) (b):	20
	, or	21
	(c) to comply with a requirement to take an oath or affirmation, to answer a question or to produce a document or thing at a hearing referred to in section 24.	22
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[4]	Section 35 Time for commencing prosecutions	25
	Insert at the end of the section:	26
	(2) A prosecution for an offence under section 25 (2) must not be commenced in respect of a refusal or failure by a person to take an oath or affirmation, to answer a question or to produce a document or thing:	27
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	(a) if the person has claimed to be entitled to refuse to take an oath or affirmation, answer the question or produce the document or thing, and the Commission decides that, in its opinion, the claim is not justified—until the expiration of the period of 5 days (excluding days on which the appropriate Registry of the Supreme Court is closed) immediately after the Commission has notified the person of the decision, or	30
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	(b) if the person has made an application to the Supreme Court under this Division for a review of such a decision of the Commission—until the application and any appeal from an order made by the Supreme Court on the application have been determined or otherwise disposed of.	36
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[5]	Section 51 Functions of the Management Committee	40
	Omit “section 54” wherever occurring in section 51 (1) (a), (b), (b1) and (c).	41
	Insert instead “section 54 (1)”.	42

[6] Section 51 (1) (c1)	1
Insert after section 51 (1) (c):	2
(c1) to refer (by a written notice in accordance with section 54 (1A)) to the	3
Commission for investigation matters (<i>joint task matters</i>) relating to the	4
subject of co-operation approved under section 10 (1) (g), and	5
[7] Section 51 (2)	6
Insert “under subsection (1) (a), (b), (b1) or (c)” after “investigation” where firstly	7
occurring.	8
[8] Section 51 (3)	9
Insert after section 51 (2):	10
(3) The Management Committee is not to refer a matter to the Commission for	11
investigation under subsection (1) (c1) unless it is satisfied that:	12
(a) the use of the Commission’s powers appears to be necessary for the	13
Commission to fully investigate the joint task matters, and	14
(b) it is in the public interest that the Commission investigate the joint task	15
matters, and	16
(c) the joint task matters are matters that may be the subject of a referral	17
under subsection (1) (a), (b) or (b1) or that are connected with this State	18
and are comparable in seriousness to matters that may be so referred,	19
and	20
(d) the joint task matters are sufficiently serious or prevalent to warrant the	21
investigation by the Commission.	22
[9] Section 53 Limitations on references or renewal of reference	23
Omit “or criminal activity of a criminal group” from section 53 (a).	24
Insert instead “, criminal activity of a criminal group or joint task matter”.	25
[10] Section 54 Notices referring matters for investigation	26
Insert after section 54 (1):	27
(1A) The notice referring a joint task matter referred to in section 51 (1) (c1):	28
(a) must specify the person or authority with whom the Commission is	29
approved to work in co-operation, and	30
(b) must specify the general nature of the joint task matters, and	31
(c) must set out the general purpose of the approval and the referral.	32
[11] Section 56 Commission may request reference	33
Omit “or criminal activity of a criminal group” from section 56 (1) (a).	34
Insert instead “, criminal activity of a criminal group or joint task matter”.	35
[12] Section 71 Functions	36
Omit “section 51 (1) (a)–(c)” from section 71 (2) (a).	37
Insert instead “section 51 (1) (a)–(c1)”.	38

[13] Section 75 Disclosure of certain financial information	1
Insert after section 75 (2):	2
(3) A person engaged by the Commission as a consultant under section 74 (2) is not required to comply with subsection (1) if the Commission waives the requirement in relation to the person or a class of persons of which the person is a member.	3 4 5 6
[14] Section 82 Annual report	7
Omit section 82 (2) (c).	8
[15] Section 82 (2A)	9
Insert after section 82 (2):	10
(2A) A report by the Commission under this section in relation to a year may also include recommendations for changes in the laws of the State, or for administrative action, that, as a result of the exercise of its functions, the Commission considers should be made.	11 12 13 14

Schedule 3	Amendment of Crimes (Appeal and Review) Act 2001 No 120—provisions relating to compulsory examinations before the Crime Commission	1
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		3
[1] Section 79 Consideration of applications		4
Insert after section 79 (3A):		5
(3B)	This section does not authorise a direction to be given, or a referral to be made to the Court of Criminal Appeal, if the Supreme Court is satisfied that the grounds for the direction or referral arise only from:	6
		7
		8
(a)	the fact that the convicted person was:	9
(i)	questioned under section 24 of the <i>Crime Commission Act 2012</i> , or	10
		11
(ii)	required under section 24 or 29 of that Act to produce a document or thing, or	12
		13
(b)	either or both of the following:	14
(i)	evidence obtained directly from that questioning or requirement,	15
(ii)	any further information, evidence, document or thing obtained as a result of the questioning or the production of the document or thing.	16
		17
		18
[2] Schedule 1 Savings, transitional and other provisions		19
Insert after Part 10:		20
Part 11 Provisions consequent on the enactment of Crime Commission Legislation Amendment Act 2014		21
		22
23 Pending applications to Supreme Court for inquiry into a conviction or sentence		23
		24
(1)	In this clause, <i>relevant application</i> means an application to the Supreme Court under section 78.	25
		26
(2)	Section 79 (3B) applies in relation to relevant applications pending immediately before the commencement of that subsection, as well as to either or both of the following:	27
		28
		29
(a)	relevant applications made on or after the commencement of that subsection,	30
		31
(b)	any action proposed to be done by the Supreme Court on or after that commencement when acting on its own motion under section 79.	32
		33
(3)	A reference in section 79 (3B):	34
(a)	to section 24 of the <i>Crime Commission Act 2012</i> is taken to include a reference to section 16 of the <i>New South Wales Crime Commission Act 1985</i> , and	35
		36
		37

- (b) to section 29 of the *Crime Commission Act 2012* is taken to include a reference to section 17 of the *New South Wales Crime Commission Act 1985*. 1
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