

## STATE DRUG CRIME COMMISSION (FURTHER AMENDMENT) BILL 1988

NEW SOUTH WALES



### EXPLANATORY NOTE

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the State Drug Crime Commission Act 1985—

- (a) to change the constitution of the Commission and of the Management Committee; and
- (b) to confer on the Commission and the Management Committee functions in relation to—
  - (i) the investigation of organised crime (in addition to, and similar to, its existing functions in relation to the investigation of illegal drug trafficking); and
  - (ii) the review of police inquiries into criminal activities (to assist the Management Committee to determine which criminal activities to refer to the Commission for investigation, and to enable the Commission to make recommendations to the Committee as to action the Commission considers should be taken); and
- (c) to provide for police task forces to assist the Commission to carry out investigations.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clauses 3 and 4** are formal provisions giving effect to the Schedules.

### SCHEDULE 1—AMENDMENTS

#### Long title

Schedule 1 (1) amends the long title as a consequence of the additional functions to be conferred under the proposed Act.

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**Additional functions conferred on Commission**

Schedule 1 (2), (3) and (4) contain amendments which effectively confer on the Commission additional functions relating to the investigation of organised crime.

In particular, Schedule 1 (2) replaces the existing definitions of "relevant drug activity" and "relevant drug offence" with the new wider definitions of "relevant criminal activity" and "relevant offence". (The new definitions are similar to definitions used in the National Crime Authority Act 1984 of the Commonwealth.)

Schedule 1 (3) and (4) amend the whole Act by replacing references to the old terms "relevant drug activity" and "relevant drug offence" with references to the new terms.

**Objects of the Act**

Schedule 1 (5) inserts a new section 3A. The new section provides that the principal object of the Act is to reduce the incidence of illegal drug trafficking and its secondary object is to reduce the incidence of organised and other crime. Accordingly, the title of the State Drug Crime Commission is to remain unchanged.

**Constitution of the Commission**

Schedule 1 (6) amends section 5 to provide that the Commission shall be constituted by one full-time Chairperson and one or more full-time or part-time members.

The amendment also inserts a new requirement that the Chairperson must have special legal qualifications (i.e. being a Judge or former Judge, a barrister of not less than 5 years' standing or a solicitor of not less than 7 years' standing).

**Commission to review police inquiries**

Schedule 1 (7) amends section 6 to increase the functions of the Commission to include the review of police inquiries into matters relating to any criminal activity (whether a relevant criminal activity or not). The inquiries proposed for review are those referred to the Commission by the Management Committee.

**Hearings**

Under the current provisions, only the Commission may conduct hearings. Schedule 1 (8) and (11) amend sections 9 and 13 so that, in future, a hearing may be conducted by one or more members of the Commission. The decision to hold a hearing will continue to be made by the Commission as a body, as under the current provisions.

Schedule 1 (11) further provides that the member presiding at a hearing must have special legal qualifications.

**Part-time members to have same powers as full-time members**

Schedule 1 (9) and (10) amend sections 10 and 11 to enable part-time members to require information from certain State agencies and to apply for the issue of search warrants. At present, these powers may be exercised only by full-time members.

**Membership of Management Committee**

Schedule 1 (12) amends section 24 to increase the membership of the Management Committee from 4 to 5 members. The extra member is the Chairman of the Police Board.

**Additional functions conferred on Management Committee**

Schedule 1 (13) amends section 25 to increase the functions of the Management Committee to include the referral to the Commission of police inquiries into any criminal activities. The police inquiries will be referred to the Commission for review. Another new function of the Committee is to arrange with the Commissioner of Police for police task forces to assist the Commission to carry out investigations.

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Schedule 1 (14) amends section 26 to enable the Commission to ask the Management Committee to refer police inquiries to the Commission for review.

**Police task forces to assist Commission**

Schedule 1 (15) inserts a new section 27A. The new section provides for police task forces to assist the Commission to carry out investigations.

Schedule 1 (16) amends section 29 to extend the secrecy provisions to members of a police task force assisting the Commission.

**Annual report**

Schedule 1 (17) amends section 31 as a consequence of the Commission's additional functions. The amended section will provide for the Commission's annual report to include a description of organised and other crime that has come to the Commission's attention during that year.

**Repeal of sunset provision**

Schedule 1 (18) omits section 38, a sunset provision which would have made the Principal Act expire at the end of 31 December 1989 (in the absence of a proclamation to the contrary).

**Consequential amendments**

Schedule 1 (19) and (20) amend provisions in the Principal Act relating to the appointment and terms and conditions applicable to members of the Commission and to the procedure of the Commission. The amendments are consequential on amendments changing the constitution of the Commission.

**SCHEDULE 2—SAVINGS**

Schedule 2 contains savings provisions providing for—

- (a) existing members of the Commission and the Management Committee to continue in office despite the proposed changes to the constitution of the Commission and Committee; and
  - (b) references in documents (such as in search warrants) to relevant drug activities to be read as references to the proposed new term "relevant criminal activities".
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