



New South Wales

# Director of Public Prosecutions Amendment (Disclosures) Bill 2011

## 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 *Director of Public Prosecutions Act 1986* to ensure that police officers investigating alleged indictable offences are not required to disclose to the Director of Public Prosecutions information, documents or other things obtained during the investigation that are the subject of a bona fide claim of privilege, public interest immunity or statutory immunity. In such a case, police officers will only have a duty to inform the Director of Public Prosecutions that they have obtained information, documents or other things of that kind.

The Bill temporarily suspends the effect of the decision of the Court of Criminal Appeal in *R v Lipton* [2011] NSWCCA 247 to enable the continuation of the current practice while a review of the proper scope of the duty of disclosure is carried out. Accordingly, the amendment ceases to have effect on 1 January 2013.

## 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 Director of Public Prosecutions Act 1986 No 207**

**Schedule 1 [1]** makes the amendment described in the Overview.

**Schedule 1 [2]** provides that the amendment extends to proceedings for indictable offences commenced before the amendment. It also validates things done or omitted to be done by police officers, the Director of Public Prosecutions and others who have functions with respect to the prosecution of indictable offences that would have been validly done or omitted to be done if the amendment had been in force.

First print



New South Wales

# Director of Public Prosecutions Amendment (Disclosures) Bill 2011

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New South Wales

# Director of Public Prosecutions Amendment (Disclosures) Bill 2011

No. , 2011

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## A Bill for

An Act to amend the *Director of Public Prosecutions Act 1986* to make further provision for the duty of disclosure imposed on police officers investigating offences.

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<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Director of Public Prosecutions Amendment (Disclosures) Act 2011</i> .	3 4
<b>2 Commencement</b>	5
This Act commences on the date of assent to this Act.	6

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<b>Schedule 1</b>	<b>Amendment of Director of Public Prosecutions Act 1986 No 207</b>	1
		2
<b>[1]</b>	<b>Section 15A Disclosures by investigating police officers</b>	3
	Insert after section 15A (5):	4
	(6) The duty imposed by this section does not require police officers investigating alleged indictable offences to disclose to the Director any information, documents or other things that are the subject of a bona fide claim of privilege, public interest immunity or statutory immunity. The duty of police officers in such a case is to inform the Director that they have obtained information, documents or other things of that kind.	5 6 7 8 9 10 11
	(7) Subsection (6) ceases to have effect on 1 January 2013.	12
<b>[2]</b>	<b>Section 36 Savings and transitional provisions</b>	13
	Insert at the end of section 36:	14
	(10) Section 15A (6), as inserted by the <i>Director of Public Prosecutions Amendment (Disclosures) Act 2011</i> , extends to proceedings for indictable offences commenced before the commencement of that subsection.	15 16 17 18
	(11) Anything done or omitted to be done before the commencement of section 15A (6) by a police officer, the Director or any other person having functions with respect to the prosecution of indictable offences, that would have been validly done or omitted if section 15A (6) had been in force at the time that it was done or omitted, is taken to have been validly done or omitted to be done.	19 20 21 22 23 24 25