



New South Wales

Independent Commission Against Corruption Amendment (Political Donations) Bill 2009

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 *Independent Commission Against Corruption Act 1988* to confer on the Commission the function of investigating and reporting on connections between political donations and decisions made by elected public officials (including decisions made by officials acting on behalf of elected public officials or in the course of their employment in agencies responsible to elected public officials).

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 Independent Commission Against Corruption Act 1988 No 35

Schedule 1 inserts section 13A into the *Independent Commission Against Corruption Act 1988*. The new section includes, as a function of the Commission, the function of conducting on-going investigations into (and reporting on) any connections between reportable political donations to elected public officials (or to the political parties to which they belong) and the decisions made by those officials. The new section provides that there is such a connection if the official makes a decision that benefits the political donor and the decision is apparently made because of the donation (whether because it was a benefit to which the political donor was not reasonably entitled or for any other reason). The elected public officials to whom the new section applies are elected members of Parliament or of local councils and any candidates for election to Parliament or to a local council. For the purposes of the new section, decisions made by officials acting on behalf of elected public officials, or in the course of their employment in agencies responsible to elected public officials, are to be regarded as the decisions of the elected public officials.



New South Wales

Independent Commission Against Corruption Amendment (Political Donations) Bill 2009

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Independent Commission Against Corruption Act 1988 No 35	3



New South Wales

Independent Commission Against Corruption Amendment (Political Donations) Bill 2009

No. , 2009

A Bill for

An Act to amend the *Independent Commission Against Corruption Act 1988* to confer on the Independent Commission Against Corruption the function of investigating and reporting on connections between political donations and decisions of elected public officials.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Independent Commission Against Corruption Amendment (Political Donations) Act 2009</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6

Schedule 1	Amendment of Independent Commission Against Corruption Act 1988 No 35	1 2 3
Section 13A		4
Insert after section 13:		5
13A	Function of investigating connections between political donations and decisions by elected public officials	6 7
(1)	It is a function of the Commission to investigate any connection between reportable political donations and decisions made by elected public officials in the course of their official functions.	8 9 10
(2)	That function extends to investigations by the Commission on an on-going basis, and is not limited to investigations arising out of a matter reported to the Commission under this Act.	11 12 13
(3)	For the purposes of this section, there is a connection between a reportable political donation and a decision made by an elected public official if, and only if:	14 15 16
(a)	a person makes a reportable political donation to an elected public official (or to the political party to which the elected public official belongs), and	17 18 19
(b)	the elected public official makes a decision in the course of his or her official functions that benefits the person who made the donation, and	20 21 22
(c)	the decision was apparently made because of the donation (whether because it was a benefit to which the person was not reasonably entitled or for any other reason).	23 24 25
(4)	A decision made by a public official who is not an elected public official:	26 27
(a)	while engaged by or acting for or on behalf of, or in the place of, or as deputy or delegate of, an elected public official, or	28 29 30
(b)	otherwise in the course of his or her employment by or in a public authority for which the elected public official is responsible,	31 32 33
	is to be regarded for the purposes of this section as a decision made by the elected public official.	34 35

Independent Commission Against Corruption Amendment (Political
Donations) Bill 2009

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

- (5) The Commission is authorised to include, in a report under section 74, findings or opinions on connections between reportable political donations and decisions made by elected public officials. 1
2
3
4
- (6) In this section: 5
- elect ed public official* means an elected member within the meaning of the *Election Funding and Disclosures Act 1981*, and includes a member of a group or candidate within the meaning of that Act. 6
7
8
9
- reportable political donation* means a reportable political donation within the meaning of Part 6 of the *Election Funding and Disclosures Act 1981* that is required to be disclosed under that Part. 10
11
12
13