



New South Wales

Independent Commission Against Corruption Amendment Bill 2008

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to amend the *Independent Commission Against Corruption Act 1988*:
 - (i) to clarify the reference to “serious and systemic corrupt conduct” in relation to the functions of the Independent Commission Against Corruption (the **Commission**), and
 - (ii) to increase the maximum penalty for an offence under section 82 of failing to provide information (or providing false information) to the Commission, and
 - (iii) to ensure that the Commission may make a non-publication order in respect of any written submissions received by the Commission by counsel assisting the Commission or by any other person, and
 - (iv) to extend the time period within which proceedings for offences against sections 82 (relating to providing information) and 95 (impersonation of Commission officer) may be commenced to 3 years (instead of 6 months) from the commission of the alleged offence,

- (b) to amend the definition of *public official* in the *Protected Disclosures Act 1994* to remove any doubt that the Act extends to any individual in the service of the Crown or of a public authority.

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.

Clause 3 is a formal provision that gives effect to the amendments to the Acts specified in Schedules 1 and 2 as set out in those Schedules.

Clause 4 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

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

Schedule 1 [1] clarifies in section 12A the reference to “serious and systemic corrupt conduct” in relation to the functions of the Commission. It is made clear that the reference extends to both serious corrupt conduct and systemic corrupt conduct.

Schedule 1 [2] increases the maximum penalty for an offence under section 82 (Offences relating to obtaining information) from 20 penalty units or imprisonment for 6 months, or both, to 50 penalty units or imprisonment for 12 months, or both.

Schedule 1 [3] makes it clear that the Commission has the power to make a non-publication order in respect of any written submissions received by the Commission (including any submissions made by Counsel assisting the Commission).

Schedule 1 [4] extends the period within which proceedings may be commenced under sections 82 (Offences relating to obtaining information) and 95 (Impersonation of officer of Commission) to 3 years from the commission of the alleged offence.

Schedule 1 [5] enables regulations to be made of a savings or transitional nature consequent on the enactment of the proposed Act.

Schedule 1 [6] contains provisions of a savings and transitional nature to ensure the amendments made by **Schedule 1 [3] and [4]** extend to current matters.

Schedule 2 Amendment of Protected Disclosures Act 1994 No 92

The *Protected Disclosures Act 1994* provides protection for public officials disclosing corrupt conduct, maladministration and waste of public money. **Schedule 2** amends the definition of *public official* in that Act to remove any doubt that the Act extends to any individual in the service of the Crown or of a public authority.

First print



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New South Wales

Independent Commission Against Corruption Amendment Bill 2008

No. , 2008

A Bill for

An Act to amend the *Independent Commission Against Corruption Act 1988* in relation to proceedings for offences and other matters; and to amend the *Protected Disclosures Act 1994* in relation to the public officials covered by that Act.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Independent Commission Against Corruption Amendment Act 2008</i> .	3 4
2 Commencement	5
This Act commences on the date of assent to this Act.	6
3 Amendment of Acts	7
The Acts specified in Schedules 1 and 2 are amended as set out in those Schedules.	8 9
4 Repeal of Act	10
(1) This Act is repealed on the day following the day on which this Act commences.	11 12
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	13 14

Schedule 1	Amendment of Independent Commission Against Corruption Act 1988 No 35	1 2 3
	(Section 3)	4
[1]	Section 12A Serious corrupt conduct and systemic corrupt conduct	5
	Omit “serious and systemic corrupt conduct”.	6
	Insert instead “serious corrupt conduct and systemic corrupt conduct”.	7
[2]	Section 82 Offences relating to obtaining information	8
	Omit “20 penalty units or imprisonment for 6 months”.	9
	Insert instead “50 penalty units or imprisonment for 12 months”.	10
[3]	Section 112 Restriction on publication of evidence	11
	Insert at the end of section 112 (1) (d):	12
	or	13
	(e) any written submissions received by the Commission (including, but not limited to, submissions made by Counsel assisting the Commission),	14 15 16
[4]	Section 116 Proceedings for offences	17
	Omit “section 80 (c) or 81” from section 116 (4).	18
	Insert instead “section 80 (c), 81, 82 or 95”.	19
[5]	Schedule 4 Savings, transitional and other provisions	20
	Insert at the end of clause 1 (1):	21
	<i>Independent Commission Against Corruption Amendment Act 2008</i>	22 23
[6]	Schedule 4, Part 8	24
	Insert at the end of the Schedule:	25
	Part 8 Provisions consequent on enactment of Independent Commission Against Corruption Amendment Act 2008	26 27 28
22	Definition	29
	In this Part:	30

Independent Commission Against Corruption Amendment Bill 2008

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

amending Act means the *Independent Commission Against
Corruption Amendment Act 2008*.

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2

23 Restriction on publication of written submissions

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The amendment made to section 112 by the amending Act
extends to any written submissions received by the Commission
before the commencement of the amendment.

4
5
6

24 Commencement of proceedings under section 82 or 95

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The amendment made to section 116 by the amending Act
extends to offences committed, or alleged to have been
committed, before the commencement of the amendment.

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**Schedule 2 Amendment of Protected Disclosures
Act 1994 No 92**

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(Section 3)

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Section 4 Definitions

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Omit “and (without limitation), includes” from the definition of *public official*.

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Insert instead “and (without limitation and to avoid doubt), includes an individual in the service of the Crown or of a public authority,”.

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