

Passed by both Houses



New South Wales

# Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Bill 2013

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2013*



New South Wales

## **Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Bill 2013**

Act No , 2013

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An Act to amend the *Independent Commission Against Corruption Act 1988* with respect to evidence in disciplinary proceedings after findings of corrupt conduct.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Act 2013*.

**2 Commencement**

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

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

**[1]    Section 26 Self-incrimination**

Insert “or except as provided by section 114A (5)” after “this Act” in section 26 (2).

**[2]    Section 37 Privilege as regards answers, documents etc**

Insert “or section 114A (5)” after “this section” in section 37 (3).

**[3]    Section 114A**

Insert after section 114:

**114A    Disciplinary proceedings—taking action based on finding of  
corrupt conduct**

- (1) This section applies if a finding is made by the Commission in a report under section 74 that a public official has engaged, or has attempted to engage, in corrupt conduct.
- (2) Disciplinary proceedings in connection with the employment of the public official may be taken by the employer of the public official on the ground of the conduct of the public official on which the finding was based.
- (3) The person or body determining the disciplinary proceedings:
  - (a) is not required to further investigate whether that conduct occurred, and
  - (b) may take any disciplinary or other action against the public official of a kind that the person or body may otherwise take in disciplinary proceedings against any such public official, and
  - (c) is to give the public official an opportunity to make a submission in relation to any proposed disciplinary or other action.
- (4) Any such disciplinary or other action is taken to be action under the law relating to the taking of disciplinary proceedings against the public official and that law (including any right to appeal against or seek a review of the action) applies accordingly.
- (5) Evidence given to the Commission by the public official may be admitted and used in disciplinary proceedings against the public official that are authorised by this section (and in any related

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appeal or review proceedings) despite sections 26 and 37 or any other law. However, the admission and use of the evidence in those proceedings does not cause it to be admissible against the public official in any other proceedings.

- (6) The regulations may do any of the following:
- (a) exclude any proceedings against a public official from the operation of this section,
  - (b) declare that any proceedings against a public official are disciplinary proceedings in connection with the employment of a public official for the purposes of this section.
- (7) This section does not apply:
- (a) to a finding of corrupt conduct that is made before the commencement of this section, or
  - (b) to any evidence given before that commencement that would not at that time have been admissible in disciplinary proceedings.
- (8) In this section:
- employment** includes:
- (a) engagement under a contract for services, and
  - (b) appointment as a statutory officer to whom a declaration under subsection (6) (b) applies.
- evidence given to the Commission** means:
- (a) a statement of information, or a document or other thing, produced in response to a notice by the Commission, and
  - (b) an answer made, or a document or other thing produced, by a person summoned to attend or appearing before the Commission at a compulsory examination or public inquiry.