

[Act 1997 No 84]



Special Commissions of Inquiry Amendment Bill 1997

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 *Special Commissions of Inquiry Act 1983* so as:

- (a) to permit the admission of evidence at a Special Commission if it satisfies the civil rather than the criminal tests of admissibility, subject to certain safeguards, and
 - (b) to clarify the scope of the report of a Special Commission, and
 - (c) to enable a House of Parliament to authorise a Special Commission to inquire into and report on matters relating to parliamentary proceedings in the House or a parliamentary committee, and to waive parliamentary privilege in connection with the Special Commission.
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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.

Clause 3 is a formal provision giving effect to the amendments to the *Special Commissions of Inquiry Act 1983* set out in Schedule 1.

Schedule 1 [1] amends section 9 (3) to permit the admission of evidence at a Special Commission if it satisfies the civil rather than the criminal tests of admissibility.

Schedule 1 [2] amends section 9 to make it clear that evidence admitted under the civil tests of admissibility is not to be taken into consideration in connection with reporting about possible offences if the evidence is not likely to be admissible in relevant criminal proceedings.

Schedule 1 [3] amends section 10 to make it clear that the report of a Special Commission can deal with the subject-matter of the commission, as well as with the issue of possible criminal prosecutions.

Schedule 1 [4] inserts a new Part 4A, dealing with inquiries concerning parliamentary proceedings. The Part contains the following provisions:

Proposed section 33A contains definitions used in the proposed Part.

Proposed section 33B empowers a House of Parliament to authorise the establishment of a Special Commission to inquire into and report on a matter relating to parliamentary proceedings within or before the House or one of its committees. In the case of a joint parliamentary committee, this authorisation is to be given by each House. The Special Commission would then be established under the existing procedures set out in the Act.

Proposed section 33C empowers a House of Parliament to authorise a Special Commission, already established, to inquire into and report on a matter relating to parliamentary proceedings within or before the House or one of its committees. Again, in the case of a joint parliamentary committee, this authorisation is to be given by each House.

Proposed section 33D empowers a House of Parliament to resolve to waive parliamentary privilege in connection with a new or existing Special Commission. However, any such waiver will not operate to waive parliamentary privilege to the extent that it can be asserted by a member of either House of Parliament, but does authorise the member to give evidence if the member so chooses (unless the declaration waiving privilege provides

The proposed section also makes it clear that section 23 (1) cannot be applied to a member, although section 23 (2) and (3) will apply to a member who chooses to give evidence.

Proposed section 33E requires a report of such a Special Commission to be made to the House of Parliament concerned (in addition to the Governor). Proposed section 33E (3) makes it clear that, once a resolution is passed under proposed section 33B or 33C, the authorisation conferred by it extends to incidental matters connected with the conduct of the Special Commission.

Proposed section 33F provides that a resolution must be supported by at least a two-thirds majority of members present and voting, is not affected by the prorogation, dissolution or expiry of either or both of the Houses of Parliament, and can be amended or revoked.

Proposed section 33G provides that the proposed Part has effect despite any other law, preserves any other powers that might exist apart from the proposed Part, and makes it clear that the proposed Part extends to parliamentary proceedings occurring before its commencement.

Proposed section 33H provides for the expiry of the proposed Part after 6 months following its commencement.