



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,

* Amended in committee—see table at end of volume.

- (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.