

## **Independent Commission Against Corruption and Ombudsman Legislation Amendment Bill 2009**

### **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 provide that Part 2 of the *Surveillance Devices Act 2007* (which prohibits certain activities relating to surveillance devices and recordings) does not prevent the Independent Commission Against Corruption from using, until 31 December 2010, recordings of private conversations to which Mr Michael Loch McGurk was a party that were obtained in contravention of Part 2, and
  - (ii) to make it clear that Part 2 does not prevent a person from providing, until 31 December 2010, any such recordings to the Commission if required to do so by the Commission, and
  - (iii) to enable the duty of principal officers of public authorities to report alleged corrupt conduct to the Commission to be extended to the heads of separate offices within those public authorities,
- (b) to amend the Community Services (Complaints, Reviews and Monitoring) Act 1993 to confer on the Ombudsman the function of auditing the implementation by public authorities of the New South Wales Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities 2006–2011.

#### 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 [3]** inserts special provisions into Schedule 4 to the *Independent Commission Against Corruption Act 1988* (**the principal Act**) to enable the Commission to obtain, possess, publish or communicate, until 31 December 2010 in accordance with the principal Act, any recordings of private conversations to which Mr Michael Loch McGurk was (or apparently was) a party that have been obtained by the use of a surveillance device in contravention of Part 2 of the *Surveillance Devices Act 2007*. The provisions also make it clear that Part 2 does not prevent a person from providing any such recording to the Commission in accordance with a requirement made of the person under the principal Act. Anything done by the Commission or other persons before the commencement of the proposed Act is taken to have been validly done if authorised by the proposed special provisions.

Section 11 of the principal Act imposes a duty to report corrupt conduct to the Independent Commission Against Corruption on certain persons, including the principal officer of a public authority. The regulations may prescribe the person who is the principal officer for the purposes of section 11. **Schedule 1 [1]** ensures that the regulations may prescribe the principal officer of a separate office within a public authority as the principal officer of the public authority in relation to matters concerning the separate office. The amendment will enable the duty to report to be retained in relation to the former heads of government departments that have recently been amalgamated.

**Schedule 1 [2]** enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.

**Schedule 2 Amendment of Community Services (Complaints, Reviews and Monitoring) Act 1993 No 2**

**Schedule 2 [1]** inserts proposed Part 6A (proposed sections 43B–43E) into the *Community Services (Complaints, Reviews and Monitoring) Act 1993*.

Proposed section 43B defines **the Interagency Plan** as the *New South Wales Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities 2006–2011*.

Proposed section 43C provides that the Ombudsman's audit functions include a review of the implementation of the Interagency Plan by relevant State public authorities (including identifying further action required by the public authorities to implement the Interagency Plan and making recommendations for the more efficient and effective implementation of the Interagency Plan). Proposed section 43C also requires the Ombudsman to report to the Minister for Aboriginal Affairs on the audit by 31 December 2012 (the report is to be tabled in Parliament within 1 month after it is furnished to the Minister). Proposed section 43D deals with the provision of information to the Ombudsman by the head of a relevant public authority to assist the Ombudsman in carrying out the audit.

Proposed section 43E applies relevant provisions of the *Ombudsman Act 1974* to functions exercised under proposed Part 6A.

**Schedule 2 [2]** enables regulations of a savings or transitional nature to be made consequent on the enactment of the proposed Act.