



New South Wales

Protected Disclosures Amendment (Police) Act 1998 No 98

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New South Wales

Protected Disclosures Amendment (Police) Act 1998 No 98

Act No 98, 1998

An Act to amend the *Protected Disclosures Act 1994* with respect to disclosure by members of the Police Service of corrupt conduct, maladministration and waste; to make a related amendment to the *Police Service Act 1990*; and for other purposes. [Assented to 26 October 1998]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Protected Disclosures Amendment (Police) Act 1998*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Protected Disclosures Act 1994 No 92

The *Protected Disclosures Act 1994* is amended as set out in Schedule 1.

4 Amendment of Police Service Act 1990 No 47

The *Police Service Act 1990* is amended as set out in Schedule 2.

Schedule 1 Amendment of Protected Disclosures Act 1994

(Section 3)

[1] Section 4 Definitions

Insert "a member of the Police Service," after "includes" in the definition of *public official*.

[2] Section 9 Disclosures must be made voluntarily

Insert after section 9 (3):

- (4) A disclosure made by a member of the Police Service is made voluntarily for the purposes of this section even if it relates to the same conduct as an allegation that the member of the Police Service has made in performance of a duty imposed on the member by or under the *Police Service Act 1990* or any other Act.

[3] Section 20 Protection against reprisals

Insert after section 20 (1):

- (1A) In any proceedings for an offence against this section, it lies on the defendant to prove that detrimental action shown to be taken against a person was not substantially in reprisal for the person making a protected disclosure.

[4] Section 33

Insert after section 32:

33 Savings, transitional and other provisions

Schedule 2 has effect.

[5] Schedule 2 Savings, transitional and other provisions

Insert after Schedule 1:

Schedule 2 Savings, transitional and other provisions

(Section 33)

Part 1 Preliminary

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

Protected Disclosures Amendment (Police) Act 1998

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Savings and transitional provisions

2 Disclosures made by police officers

A disclosure made by a police officer is protected by this Act even if it is made about conduct or activities engaged in, or about matters arising, before the commencement of the *Protected Disclosures Amendment (Police) Act 1998*.

3 Protection against reprisals

Section 20 (1A) does not apply in relation to a proceeding the hearing of which began before the commencement of that subsection.

Schedule 2 Amendment of Police Service Act 1990

(Section 4)

Section 206 Protection against reprisals

Insert "In particular, nothing in this section prevents a police officer who makes a protected allegation from making a disclosure relating to the same conduct or activities under that Act" after "1994." in section 206 (4).

[Minister's second reading speech made in—
Legislative Assembly on 16 September 1998
Legislative Council on 14 October 1998]

BY AUTHORITY