



New South Wales

Ombudsman Amendment Bill 2012

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 provide for the Ombudsman to appoint an Australian legal practitioner to assist the Ombudsman in an inquiry,
- (b) to enable the Ombudsman to restrict the publication of evidence or information provided to an inquiry and to prohibit the publication of evidence or information provided to an Ombudsman's inquiry and the disclosure of information about a summons by the Ombudsman,
- (c) to enable the Ombudsman to require officers of the Crime Commission or the Police Integrity Commission to give evidence or produce documents in connection with investigations of matters referred to the Ombudsman by the Inspector of the Police Integrity Commission or the Inspector of the Crime Commission,
- (d) to clarify the operation of transitional provisions relating to the application of secrecy provisions to information obtained under the repealed *New South Wales Crime Commission Act 1985*.

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 Ombudsman Act 1974 No 68

Schedule 1 [1] provides for the Ombudsman to appoint an Australian legal practitioner to assist the Ombudsman for the purposes of an inquiry.

Schedule 1 [2] inserts proposed sections 19A–19C. Proposed section 19A enables the Ombudsman to direct that certain matters relating to an inquiry not be published, including evidence given before an inquiry, the contents of something produced to the Ombudsman and information that might identify a person who has given evidence or whether a person has given evidence to an inquiry. A direction can only be given if the Ombudsman is satisfied that it is necessary or desirable in the public interest. Proposed section 19B prohibits a person who was present at an Ombudsman's inquiry from publishing evidence or a document given at the inquiry unless the publication is to the Ombudsman, an officer of the Ombudsman or an Australian legal practitioner assisting the Ombudsman or is permitted by the Ombudsman. Proposed section 19C prohibits a person who is required by a summons to produce a document or thing to the Ombudsman or to give evidence from disclosing information about the summons if it is likely to prejudice the investigation to which it relates.

Schedule 1 [3] provides that an Australian legal practitioner assisting the Ombudsman or representing a person at an inquiry held by the Ombudsman has the same protection and immunity as a barrister has in appearing for a party to proceedings in the Supreme Court.

Schedule 1 [4] enables regulations containing savings and transitional provisions to be made as a consequence of any Act amending the *Ombudsman Act 1974*.

Schedule 2 Amendment of Crime Commission Act 2012 No 66

Schedule 2 [1] requires the Inspector of the Crime Commission to specify in writing the terms of any referral by the Inspector of a matter to another public authority or public official for consideration or action.

Schedule 2 [2] inserts proposed section 80A. The proposed section contains an exception to the general secrecy provisions of the *Crime Commission Act 2012* and enables the Commissioner for the Crime Commission, and any officer of the Commission, to furnish information and give evidence to the Ombudsman about matters arising from the exercise of Crime Commission functions. However, the

Ombudsman will only be able to compel such information to be given in connection with a matter that has been referred to the Ombudsman for investigation by the Inspector of the Crime Commission or the Inspector of the Police Integrity Commission.

Schedule 2 [3] makes it clear that the secrecy provisions of the *Crime Commission Act 2012*, and the provision inserted by Schedule 1 [2] apply to information obtained, and things done, under the former *New South Wales Crime Commission Act 1985*.

Schedule 3 Amendment of Police Integrity Commission Act 1996 No 28

Schedule 3 [1] amends the exception to the general secrecy provisions of the *Police Integrity Commission Act 1996* which permits the Commissioner for the Police Integrity Commission and any officer of the Police Integrity Commission to provide information to, and give evidence before, the Ombudsman. The Ombudsman will only be able to compel the provision of information or evidence in connection with a matter that has been referred to the Ombudsman for investigation by the Inspector of the Police Integrity Commission or the Inspector of the Crime Commission.

Schedule 3 [2] requires the Inspector of the Police Integrity Commission to specify in writing the terms of any referral by the Inspector of a matter to another agency for consideration or action.