



New South Wales

# Royal Commissions Amendment Bill 2013

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

### Overview of Bill

On 11 January 2013, the Commonwealth government established a Royal Commission into institutional responses to child sexual abuse, with 6 commissioners. The NSW government established an equivalent Royal Commission with the same commissioners under the *Royal Commissions Act 1923* of New South Wales to provide legal support for the operation of the Royal Commission. Under amendments to the *Royal Commissions Act 1902* of the Commonwealth, the chairperson of a Royal Commission is to be given power to authorise one or more of the commissioners to hold separate and concurrent hearings and exercise other powers of the Royal Commission.

The object of this Bill is to amend the *Royal Commissions Act 1923* to give the chairperson of a Royal Commission under the NSW Act similar powers to those to be given to the chairperson of a Royal Commission under the Commonwealth Act.

The Bill also amends the *Royal Commissions Act 1923*:

- (a) to ensure that a person who provides material voluntarily for the purposes of an inquiry has the same protections as a witness appearing before the Royal Commission, and

- (b) to make the legal qualifications necessary for a chairperson or sole commissioner to exercise special powers under the Act the same as those that apply for a person to be appointed as the Commissioner of a Special Commission of Inquiry or to other standing commissions such as the Independent Commission Against Corruption.

The Bill also amends the *Special Commissions of Inquiry Act 1983* to give effect to the object in paragraph (a) with respect to material obtained voluntarily by a Special Commission of Inquiry under that Act.

## 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 Royal Commissions Act 1923 No 29**

**Schedule 1 [1]** amends the definition of a *royal commission* under the Act and **Schedule 1 [3]** inserts proposed section 5A into the Act, with respect to the commissioners of a Royal Commission who may sit for the purposes of an inquiry. In addition to the existing provision with respect to a sole commissioner or all or a quorum of the commissioners, the amendments enable any of the following to sit for the purposes of any part of an inquiry:

- (a) the chairperson of the commission,
- (b) one or more commissioners authorised by the chairperson to sit for the purposes of that part of the inquiry.

A commissioner or commissioners so authorised may sit concurrently for the purposes of the inquiry, and exercise relevant powers of the chairperson under the Act with respect to a separate sitting.

**Schedule 1 [2]** makes a consequential amendment to the definition of *chairperson* for the purposes of Division 2 of Part 2 of the Act.

**Schedule 1 [4]** amends section 11 of the Act to ensure that a person who provides material voluntarily for the purposes of an inquiry has the same protections as a witness appearing before the Royal Commission.

**Schedule 1 [5]** substitutes section 15 of the Act with respect to the legal qualifications necessary for a chairperson or sole commissioner to exercise special powers under the Act. The qualified persons authorised to exercise those special powers are:

- (a) a Judge of the Supreme Court of New South Wales or of any other State or Territory, a Judge of the Federal Court of Australia or a Justice of the High Court of Australia, or

- (b) a former Judge or Justice of any such court, or
- (c) a person qualified to be appointed as a Judge or Justice of any such court (but only if the Governor declares that the person may exercise the special powers).

The substituted section enables the exercise of the special powers by a member of a commission who is a qualified person and who has been authorised to do so by the chairperson.

**Schedule 1 [6]** inserts proposed Schedule 1 into the Act. The Schedule provides that the amendments made by the proposed Act extend to the New South Wales Royal Commission into institutional responses to child sexual abuse.

The proposed Schedule also enables regulations under the Act to contain provisions of a savings or transitional nature consequent on the enactment of the proposed Act or any other Act that amends the *Royal Commissions Act 1923*.

## **Schedule 2      Amendment of Special Commissions of Inquiry Act 1983 No 90**

**Schedule 2** amends section 17 of the Act to ensure that a person who provides material voluntarily for the purposes of an inquiry has the same protections as a witness appearing before the Special Commission.

**Schedule 1 [6]** includes provisions that ensure that this proposed amendment extends to the New South Wales Special Commission of Inquiry into the police investigation of matters concerning alleged child sexual abuse established on 21 November 2012.