



Independent Commission Against Corruption Amendment (Disciplinary Proceedings) Bill 2013

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INDEPENDENT COMMISSION AGAINST CORRUPTION AMENDMENT (DISCIPLINARY PROCEEDINGS) BILL 2013

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Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [6.30 p.m.]: I move:

That this bill be now read a second time.

This bill is a further step in the series of measures that the Government is taking to improve confidence in public administration in New South Wales. I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

The reforms in this bill—which stem from a previous request from the Independent Commission Against Corruption—will strengthen both the commission and the integrity of the public service, by facilitating the removal of public officials who have engaged in corrupt conduct.

This bill will amend the *Independent Commission Against Corruption Act 1988* to enable employers of public officials to take disciplinary proceedings against public officials on the basis of corruption findings made by the Independent Commission Against Corruption.

It will also make self-incriminating evidence given to the Independent Commission Against Corruption by any such public officials admissible for the purpose of those disciplinary proceedings.

As a result of these reforms, there will be no need for the employer to conduct a separate investigation into the conduct of the public official, if the public official is found by the Independent Commission Against Corruption, in its report to Parliament following an investigation, to have engaged in corrupt conduct.

The Independent Commission Against Corruption is an investigative body. The role of the Independent Commission Against Corruption is to investigate and expose corrupt conduct in the New South Wales public sector.

It is also tasked with actively preventing corruption through advice and assistance, and educating the New South Wales community and public sector about corruption and its effects.

Following a public inquiry, the Independent Commission Against Corruption publishes a report to Parliament of the investigation. The report will generally include, where applicable:

- recommendations for changes in systems and procedures to prevent future corrupt conduct;
- findings of corrupt conduct against the people investigated;
- recommendations that consideration be given to the taking of disciplinary or dismissal action; and
- recommendations that the advice of the Director of Public Prosecutions be sought on prosecution of the people investigated.

Parliament's Presiding Officers will generally make this report available to the public.

Once a report is handed down, the Independent Commission Against Corruption monitors the implementation of any corruption prevention recommendations. The Independent Commission Against Corruption will also assist the Director of Public Prosecutions in preparing for any prosecutions.

Because the Independent Commission Against Corruption conducts the investigation, it is part of our legal system that it should not also be responsible for deciding criminal and civil liability. That is a matter for the courts, not the

investigators. The evidence is laid before a court before any criminal or civil liability is imposed for the conduct exposed by the Independent Commission Against Corruption.

For public officials found by the Independent Commission Against Corruption to have engaged in corrupt conduct, currently the next step is that the employer conducts a separate investigation of its own to ascertain whether, on the balance of probabilities, there has been misconduct.

It is the Government's view that this is a duplication of the effort of the Independent Commission Against Corruption and a waste of resources. There is no need for two investigations into misconduct.

The amendments to the Independent Commission Against Corruption Act in this bill will allow the employer of a public official to rely on the Independent Commission Against Corruption's investigation and not have to start again from scratch. The employer will be able to choose from the range of disciplinary and remedial actions currently available to them to decide the appropriate response to the public official's wrongdoing.

The concept of employer is expanded in the bill to include, for example, the department that engages a consultant under a contract.

The amendments will require the employer to give the public official an opportunity to make a submission in relation to any proposed action, before the disciplinary or remedial action is taken.

Importantly, the evidence gathered by the Independent Commission Against Corruption, including, for example, an admission of guilt that may have been made under compulsion before the Independent Commission Against Corruption, will be able to be relied on by the employer in making his or her decision.

The use of this evidence in the disciplinary proceedings will not make the evidence admissible in any other proceedings.

There will be no change to the protections currently given to witnesses before the Independent Commission Against Corruption that prevent any self-incriminating evidence they have given under compulsion being used in criminal or civil proceedings.

These amendments will not apply to evidence given by a public official or a finding of corrupt conduct made by the Independent Commission Against Corruption before the commencement of the amendments.

The Government is committed to improving accountability and ethical standards in public administration.

The reforms contained in the bill will strengthen and support the Independent Commission Against Corruption and the integrity of the public service.

I commend the bill to the House.