



New South Wales

Public Interest Disclosures Amendment Bill 2013

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Public Interest Disclosures Act 1994* (the *principal Act*) as follows:

- (a) to make it clear that an employee or officer of a corporation that is engaged by a public authority under a contract to provide services to or on behalf of a public authority, who provides or is to provide those services, is a public official for the purposes of the principal Act,
- (b) to provide for particular examples of persons who are public officials for the purposes of the principal Act,
- (c) to include the Public Service Commissioner on the Public Interest Disclosures Steering Committee,
- (d) to except public authorities from certain procedural requirements relating to public interest disclosures they receive, in relation to disclosures by public officials in performing their day to day functions as such public officials or under a legal obligation,
- (e) to remove the requirement that a public interest disclosure be made voluntarily,

- (f) to extend (from 2 years to 3 years) the time for instituting proceedings for the offence of reprisal for a public interest disclosure.

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 Public Interest Disclosures Act 1994 No 92

Schedule 1 [1] substitutes the definition of *public official* to separate out an independent category of public official, the basis for which is engagement by a public authority under a contract to provide services to or on behalf of the public authority. The item clarifies that this category of public official extends to employees and officers of a corporation that is so engaged by a public authority, who provide or are to provide the contracted services or any part of them. The item also inserts a provision containing particular examples of public officials.

Schedule 1 [2] includes the Public Service Commissioner as a member of the Public Interest Disclosures Steering Committee established by the principal Act. **Schedule 1 [3]** makes a consequential amendment relating to the quorum for a meeting of the Steering Committee.

Schedule 1 [4] excepts public authorities from the requirement that their public interest disclosure policy require an acknowledgement of receipt of a disclosure and a copy of the policy to be provided to the public official making the disclosure, in relation to any disclosures made by public officials in performing their day to day functions as such public officials or under a legal obligation.

Schedule 1 [5] removes the requirement that a disclosure be made voluntarily to be protected by the principal Act.

Schedule 1 [6] extends (from 2 years to 3 years) the time for instituting proceedings for the offence of taking detrimental action against a person substantially in reprisal for the person making a public interest disclosure.

Schedule 1 [7] enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act or any other Act that amends the principal Act.

Schedule 1 [8] inserts transitional provisions as a consequence of the amendments made by Schedule 1 [1] and [6].