

Passed by both Houses



New South Wales

Public Interest Disclosures Amendment Bill 2013

Contents

	Page
1 Name of Act	2
2 Commencement	2
Schedule 1 Amendment of Public Interest Disclosures Act 1994 No 92	3

I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2013*



New South Wales

Public Interest Disclosures Amendment Bill 2013

Act No , 2013

An Act to amend the *Public Interest Disclosures Act 1994* to make further provision for the public officials covered by that Act, disclosures and other matters.

I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.

Assistant Speaker of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Interest Disclosures Amendment Act 2013*.

2 Commencement

This Act commences on the date of assent to this Act.

Schedule 1 Amendment of Public Interest Disclosures Act 1994 No 92

[1] Section 4A

Omit the section. Insert instead:

4A Public officials

- (1) In this Act, *public official* means:
 - (a) an individual who is an employee of or otherwise in the service of a public authority, and includes (without limitation) each of the following:
 - (i) a person employed under the *Public Sector Employment and Management Act 2002*,
 - (ii) a member of Parliament, but not for the purposes of a disclosure made by the member,
 - (iii) a person employed by either or both of the President of the Legislative Council or the Speaker of the Legislative Assembly,
 - (iv) any other individual having public official functions or acting in a public official capacity whose conduct and activities may be investigated by an investigating authority,
 - (v) an individual in the service of the Crown, or
 - (b) an individual who is engaged by a public authority under a contract to provide services to or on behalf of the public authority, or
 - (c) if a corporation is engaged by a public authority under a contract to provide services to or on behalf of the public authority, an employee or officer of the corporation who provides or is to provide the contracted services or any part of those services.
- (2) Without limiting subsection (1) and to avoid doubt, particular examples of public officials are as follows:
 - (a) a volunteer rural fire fighter who is an officer or other member of a rural fire brigade under the *Rural Fires Act 1997*,
 - (b) a volunteer officer or volunteer member of an SES unit (within the meaning of the *State Emergency Service Act 1989*),

- (c) an officer of the Royal Society for the Prevention of Cruelty to Animals, New South Wales who is an inspector under the *Prevention of Cruelty to Animals Act 1979*,
 - (d) a person who is employed by a management company for a managed correctional centre (within the meaning of the *Crimes (Administration of Sentences) Act 1999*) to perform duties at the correctional centre and who is authorised under section 240 of that Act to perform those duties,
 - (e) an accredited certifier (within the meaning of the *Environmental Planning and Assessment Act 1979*).
- (3) A person who is a public official referred to in subsection (1) (b) or (c) is taken, for the purposes of this Act, to belong to the public authority with whom the relevant contract is made.

[2] Section 6A Steering Committee

Insert after section 6A (1) (g1):

- (g2) the Public Service Commissioner,

[3] Section 6A (4)

Omit “3 members”. Insert instead “4 members”.

[4] Section 6D Public interest disclosures policies and guidelines

Insert after section 6D (3):

- (4) Subsection (1A) does not apply in relation to a public interest disclosure:
 - (a) made by a public official in performing his or her day to day functions as that public official, or
 - (b) otherwise made by a public official, under a statutory or other legal obligation.

[5] Section 9 Disclosures must be made voluntarily

Omit the section.

[6] Section 20 Protection against reprisals

Omit “2 years” from section 20 (3). Insert instead “3 years”.

[7] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

any other Act that amends this Act

[8] Schedule 2, Part 5

Insert after clause 17:

**Part 5 Provisions consequent on enactment of
Public Interest Disclosures Amendment
Act 2013**

18 Definition

In this Part:

amending Act means the *Public Interest Disclosures Amendment Act 2013*.

19 Substituted definition of “public official”

This Act extends to a disclosure of information made by a public official on or after the substitution of section 4A by the amending Act, even if the disclosure relates to conduct or activities engaged in, or matters arising, before that substitution.

20 Proceedings for offences against reprisals

Section 20 (3) (as amended by the amending Act) extends to offences against section 20 that are alleged to have been committed within 2 years before the commencement of the amendment.