

Local Government Amendment (Ethics Review Panel) Bill 2002

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 *Local Government Act 1993 (the Principal Act)* to provide for the establishment of a Local Government Ethics Review Panel to monitor and investigate ethical matters relating to local councils and councillors.

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 3 months after the date of assent, unless commenced sooner by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Local Government Act 1993* set out in Schedule 1.

Clause 4 is a formal provision giving effect to a consequential amendment to the *Defamation Act 1974* set out in Schedule 2.

Schedule 1 [1] inserts a new Part (Part 5 Local Government Ethics Review Panel) into Chapter 14 of the Principal Act (Honesty and disclosure of interests).

Proposed sections 490A–490C constitute the Local Government Ethics Review Panel as a body corporate and provide that it is to have the following principal functions:

- (a) to review the probity and ethical behaviour of councillors,
- (b) to ascertain whether councillors are complying with their duty under the Principal Act to act honestly and exercise a reasonable degree of care and diligence in carrying out their functions,
- (c) to review the compliance of councillors with their relevant codes of conduct adopted by their councils under the Principal Act,
- (d) to make recommendations and provide advice to councillors on the ethical implications of their conduct,
- (e) where the Panel considers it appropriate, to publish such recommendations,
- (f) to report to Parliament regarding the ethical behaviour of councillors and any other matters considered by the Panel.

The Local Government Ethics Review Panel may also:

- (a) instruct, advise and assist councils, councillors and members of staff of councils on ways to improve ethical behaviour and practices, and
- (b) educate councils, councillors, members of staff of councils and the public on strategies to improve ethical behaviour and practices in local government, and
- (c) educate and disseminate information to the public on the detrimental effects of unethical behaviour in local government and the importance of maintaining the integrity of local government.

The Local Government Ethics Review Panel is to consist of:

- (a) one officer of the Department of Local Government appointed by the Minister for Local Government (who is to be Chairperson of the Panel), and
- (b) one person appointed by the Minister for Local Government on the nomination of the Local Government and Shires Associations of New South Wales (who is to be Deputy Chairperson of the Panel), and
- (c) two persons (not being members of the same organisation) appointed by the Minister for Local Government who, in the Minister's opinion, have experience or expertise in the field of ethics.

Proposed section 490D provides that certain provisions of the *Independent Commission Against Corruption Act 1988* are to apply to the Local Government Ethics Review Panel. The applied provisions relate to investigations and hearings that may be undertaken by the Local Government Ethics Review Panel.

Proposed section 490E provides that the Local Government Ethics Review Panel may delegate to an officer of the Department of Local Government any of the Panel's functions (other than this power of delegation). A Departmental officer may exercise such delegated functions and functions under another Part of the Act at the same time. For example, an officer of the Department exercising delegated functions under this Part may also act as a Departmental representative under Part 5 of Chapter 13 of the Principal Act.

Proposed section 490F provides that the Local Government Ethics Review Panel must prepare an annual report of its operations and furnish the report to the Minister for Local Government. Such a report must include the following:

- (a) a description of the matters that were referred to the Panel,
- (b) a description of the matters investigated by the Panel,
- (c) any recommendations for changes in the laws of the State, or for administrative action, that the Panel considers should be made as a result of the exercise of its functions,
- (d) any other general recommendations regarding the ethical behaviour of councillors, councils' codes of conduct or other ethical issues relating to local government,
- (e) a description of its activities during that year in relation to its educating and advising functions.

The Local Government Ethics Review Panel's annual report is to form part of the annual report of the Department of Local Government which is submitted to Parliament.

Schedule 1 [2] inserts proposed Schedule 4A (Constitution and procedure of the Ethics Review Panel) into the Principal Act. The proposed Schedule contains machinery provisions relating to the constitution and procedure of the Local Government Ethics Review Panel.

Schedule 1 [3] inserts a definition of ***Ethics Review Panel*** into the Dictionary to the Principal Act.

Schedule 2 makes a consequential amendment to the *Defamation Act 1974*. The Schedule inserts proposed section 17KB into that Act to provide for a defence of absolute privilege for publications to or by the Local Government Ethics Review Panel or to any member of that Panel as such a member.