



New South Wales

Independent Commission Against Corruption Amendment (Disclosure of Information) Bill 2016

Explanatory note

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

Overview of Bill

The object of this Bill is to protect persons who lodge complaints about corrupt conduct with the Independent Commission Against Corruption, or who otherwise voluntarily give statements or documents to the Commission, from any criminal or civil liability that might otherwise arise as a result of the complaint, statement or document, including liability for defamation or breach of confidentiality and the taking of disciplinary action by a professional organisation.

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 Independent Commission Against Corruption Act 1988 No 35**

Schedule 1 [2] protects a person who voluntarily gives any statement of information, or produces any document or thing, to the Independent Commission Against Corruption in good faith in connection with a complaint or an investigation from civil or criminal liability, and from disciplinary proceedings, in relation to the statement or production.

Schedule 1 [3] remakes and extends an existing provision that gives qualified protection to natural persons from self-incrimination, so that it applies to the making of voluntary statements, and the

voluntary production of documents or things, by a natural person. **Schedule 1 [1] and [4]** make consequential amendments.



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Independent Commission Against Corruption Amendment (Disclosure of Information) Bill 2016

No. , 2016

A Bill for

An Act to amend the *Independent Commission Against Corruption Act 1988* to protect individuals who voluntarily disclose information to the Commission from criminal or civil liability in connection with that disclosure.

The Legislature of New South Wales enacts:

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1 Name of Act

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This Act is the *Independent Commission Against Corruption Amendment (Disclosure of Information) Act 2016*.

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2 Commencement

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

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Schedule 1	Amendment of Independent Commission Against Corruption Act 1988 No 35	1
		2
[1] Section 26 Self-incrimination		3
Omit the section.		4
[2] Section 109 Protection from liability		5
Omit section 109 (5) and (6). Insert instead:		6
(5) A person is not subject to any criminal or civil liability for compliance, or purported compliance, with a requirement of this Act and no action, claim, demand or disciplinary action may be taken against or made of the person in relation to that compliance or purported compliance.		7 8 9 10
(6) A person who voluntarily gives any statement of information or produces any document or thing to the Commission in good faith in connection with a complaint made to, or an investigation conducted by, the Commission about a matter that concerns or may concern corrupt conduct is not subject to any criminal or civil liability for giving the statement of information or producing the document or thing and no action, claim, demand or disciplinary action may be taken against or made of the person in relation to the statement or production.		11 12 13 14 15 16 17 18
(7) This section has effect despite any duty of secrecy or confidentiality or any other restriction on disclosure (whether or not imposed by an Act) applicable to the relevant person.		19 20 21
[3] Section 109A		22
Insert after section 109:		23
109A Self-incrimination		24
(1) This section applies where a natural person gives any statement of information or produces any document or thing to the Commission in good faith:		25 26
(a) in connection with a complaint made to, or an investigation conducted by, the Commission about a matter that concerns or may concern corrupt conduct, or		27 28 29
(b) pursuant to a requirement of the Commission under section 21 or 22.		30
(2) If the statement, document or thing tends to incriminate the person and the person objects to the giving or production at the time, neither the fact of the requirement nor the statement, document or thing itself (if produced) may be used in any proceedings against the person (except proceedings for an offence against this Act or except as provided by section 114A (5)).		31 32 33 34 35
(3) The statement, document or thing may however be used for the purposes of the complaint or investigation concerned, despite any such objection.		36 37

[4] Section 114A Disciplinary proceedings—taking action based on finding of corrupt conduct

Omit “sections 26 and 37” from section 114A (5). Insert instead “sections 37 and 109A”.

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