

Overview of Bill

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

- (a) to include the Information Commissioner on the Public Interest Disclosures Steering Committee, and
- (b) to require each public authority to provide quarterly data to the Ombudsman on the authority's compliance with the principal Act, and
- (c) to require each public authority's public interest disclosures policy to require that a person who makes a public interest disclosure to the authority is to be provided, within 45 days of the person having made the disclosure, with a copy of the policy and an acknowledgment of the receipt of the disclosure, and
- (d) to clarify the process for the referral of evidence of an alleged reprisal for a public interest disclosure to the Commissioner of Police, the Police Integrity Commission (***the PIC***), the Independent Commission Against Corruption (***the ICAC***), the Attorney General and the Director of Public Prosecutions, and
- (e) to expand the matters in respect of which public interest disclosures may be made to the local government investigating authority, and

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- (f) to make provision for the involvement of the Ombudsman in resolving disputes arising from a public interest disclosure having been made by a public official, and

- (g) to clarify the responsibilities of the head of a public authority.

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 (except for Schedule 1 [5]) on a day or days to be appointed by proclamation. Schedule 1 [5] commences on 1 January 2012.

Schedule 1 Amendment of Public Interest

Disclosures Act 1994 No 92

Schedule 1 [2] replaces the term "protected disclosure" with the term "public interest disclosure". **Schedule 1 [6], [9] and [12]** make consequential amendments.

Schedule 1 [4] expands the membership of the Public Interest Disclosures Steering Committee to include the Information Commissioner.

Schedule 1 [5] requires each public authority to prepare quarterly reports for the Ombudsman containing information on the authority's compliance with its obligations under the principal Act in addition to the annual reports that are currently required to be prepared for tabling in Parliament.

Schedule 1 [7] provides that a public authority's policy for receiving, assessing and dealing with public interest disclosures must ensure that a person who makes a public interest disclosure receives, within 45 days of the person having made the disclosure, a copy of the policy and a written acknowledgment of receipt of the disclosure.

Schedule 1 [8] provides that the head of a public authority must ensure that the authority has a public interest disclosures policy, that the policy designates at least one officer of the authority as being responsible for receiving public interest disclosures on behalf of the authority, that the staff of the authority are aware of the contents of the policy and the protections under the principal Act and that the authority complies with the policy and the authority's obligations under the principal Act.

Schedule 1 [11] expands the matters in respect of which public interest disclosures may be made to the local government investigating authority in relation to local government. The new matters are allegations of corrupt conduct, maladministration, government information contraventions and local government pecuniary interest

contraventions. Presently, public interest disclosures may be made to the local government investigating authority only in respect of serious and substantial waste of local government money. **Schedule 1 [1], [3], [10], [14] and [19]** make consequential amendments.

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Schedule 1 [13] clarifies the process for the referral of evidence of an alleged reprisal for a public interest disclosure. **Schedule 1 [17]** makes a consequential amendment. Public authorities (other than investigating authorities and the NSW Police Force) are to refer evidence of an offence to the Commissioner of Police or the ICAC (except for evidence relating to alleged offences by the NSW Police Force, which must be referred to the PIC).

Investigating authorities (other than the ICAC, the ICAC Inspector, the PIC and the PIC Inspector) must, after completing or discontinuing an investigation, refer evidence of an offence to the Commissioner of Police (except for evidence relating to alleged offences by the NSW Police Force, which must be referred to the PIC). The NSW Police Force, the ICAC, the ICAC Inspector, the PIC and the PIC Inspector must, after completing an investigation and forming the opinion that an offence has been committed, refer the matter, by providing a brief of evidence, to the Director of Public Prosecutions (except for alleged offences by the Director of Public Prosecutions, which must be referred to the Attorney General).

Schedule 1 [15] enables regulations to be made to confer functions on the Ombudsman relating to the resolution of disputes arising as a result of a public official making a public interest disclosure.

Schedule 1 [16] enables regulations of a savings or transitional nature to be made as a consequence of the enactment of the proposed Act.

Schedule 1 [18] is a transitional provision that makes it clear that the changes to the process for the referral of an alleged reprisal for a public interest disclosure do not apply in respect of a reprisal that is alleged to have occurred before the changes were made.

Schedule 2 Amendment of other Acts

Schedule 2 makes amendments to various Acts as a consequence of the replacement of the term “protected disclosure” with “public interest disclosure”.