

ROYAL COMMISSIONS (AMENDMENT) BILL 1987

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Royal Commissions Act 1923 to enable a Royal Commissioner who is a Judge of the High Court, the Supreme Court of a State or Territory or the Federal Court to exercise the powers conferred by Division 2 of Part II of that Act if the Governor, by letters patent, declares that the Division is to have effect.

At present those powers can only be exercised by a Royal Commissioner who is a Judge of the Supreme Court of New South Wales.

The powers concerned include—

- (a) the power to arrest recalcitrant witnesses;
- (b) the power to compel the production of documents;
- (c) the power to compel witnesses to answer questions; and
- (d) the powers of a Supreme Court Judge to compel the attendance of witnesses and production of evidence and to punish for contempt or disobedience.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will commence on assent.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Clause 4 is a transitional provision which provides that the amendments effected by the proposed Act apply to a Royal Commission even if it started before the commencement of the proposed Act.

Schedule 1 (1) and (7) repeal a formal provision which provided for the arrangement of the Principal Act and repeal obsolete provisions concerned with repeals and savings.

Schedule 1 (2) and (3) replace out-of-date references to the Great Seal with references to the Public Seal.

Schedule 1 (4) is a consequential amendment to a heading.

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Schedule 1 (5) amends section 15 of the Principal Act to achieve the object set out above.

Schedule 1 (6) (a) amends section 17 of the Principal Act to enable a declaration conferring certain extra powers on a Royal Commission to be made not only in letters patent constituting the Commission (as at present) but also in other letters patent. The extra powers relate to the right of a witness to be excused from answering a question or from producing a document.

Schedule 1 (6) (b) amends section 17 of the Principal Act so that a general declaration applying Supreme Court powers to a Judge of another jurisdiction (when acting as a Royal Commissioner) is not sufficient to apply the extra powers mentioned in Schedule 1 (6) (a) above unless the declaration specifically mentions those powers.

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TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 29, 1923
4. Transitional

SCHEDULE 1—AMENDMENTS

ROYAL COMMISSIONS (AMENDMENT) BILL 1987

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No. , 1987

A BILL FOR

An Act to amend the Royal Commissions Act 1923 to make further provision with respect to the powers of Royal Commissioners; and in other respects.

Royal Commissions (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Royal Commissions (Amendment) Act 1987.

5 Commencement

2. This Act shall commence on the date of assent to this Act.

Amendment of Act No. 29, 1923

3. The Royal Commissions Act 1923 is amended as set out in Schedule 1.

10 Transitional

4. The Royal Commissions Act 1923, as amended by this Act, applies to a commission under that Act even if it was issued before the commencement of this Act.

SCHEDULE 1—AMENDMENTS

15

(Sec. 3)

- (1) Sections 2 (**Arrangement**), 3 (**Repeals and savings**)—
Omit the sections.

- (2) Section 4 (**Interpretation**)—
Omit “Great Seal”, insert instead “Public Seal”.

- 20 (3) Section 5 (**Commissioners**)—
Section 5 (1)—
Omit “Great Seal”, insert instead “Public Seal”.

- (4) Part II, Division 2, heading—
Omit the heading, insert instead:

- 25 **Division 2—Commission to certain Judges—special powers**

- (5) Section 15 (**Application of Division**)—

- (a) Section 15 (1)—
Omit “judge”, insert instead “Judge”.

- (b) Section 15 (2), (3)—
30 Omit section 15 (2), insert instead:

- (2) The provisions of this Division shall also have effect if—
(a) the chairman of a commission or the sole commissioner is a Judge of the High Court, the Supreme Court of another State or a Territory or the Federal Court; and

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) in the letters patent by which the commission is issued, or in other letters patent under the Public Seal, the Governor declares that the provisions of this Division are to have effect in relation to the commission.
- 5 (3) In this Division—
 “commissioner” means such a Judge as chairman or sole commissioner.
- (6) Section 17 (**Answers and documents**)—
- 10 (a) Section 17 (4)—
 After “issued”, insert “, or in other letters patent under the Public Seal,”.
- (b) Section 17 (5)—
 After section 17 (4), insert:
- 15 (5) A declaration under section 15 (2) that the provisions of this Division are to have effect is not sufficient to apply this section unless the declaration specifically states that this section shall apply to and with respect to the inquiry.
- (7) Schedule—
 Omit the Schedule.

ROYAL COMMISSIONS (AMENDMENT) ACT 1987 No. 151

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TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Act No. 29, 1923
4. Transitional

SCHEDULE 1—AMENDMENTS

ROYAL COMMISSIONS (AMENDMENT) ACT 1987 No. 151

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Act No. 151, 1987

An Act to amend the Royal Commissions Act 1923 to make further provision with respect to the powers of Royal Commissioners; and in other respects. [Assented to 5 November 1987]

Royal Commissions (Amendment) 1987

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Royal Commissions (Amendment) Act 1987.

Commencement

2. This Act shall commence on the date of assent to this Act.

Amendment of Act No. 29, 1923

3. The Royal Commissions Act 1923 is amended as set out in Schedule 1.

Transitional

4. The Royal Commissions Act 1923, as amended by this Act, applies to a commission under that Act even if it was issued before the commencement of this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Sections 2 (**Arrangement**), 3 (**Repeals and savings**)—
Omit the sections.
- (2) Section 4 (**Interpretation**)—
Omit “Great Seal”, insert instead “Public Seal”.
- (3) Section 5 (**Commissioners**)—
Section 5 (1)—
Omit “Great Seal”, insert instead “Public Seal”.
- (4) Part II, Division 2, heading—
Omit the heading, insert instead:
Division 2—Commission to certain Judges—special powers
- (5) Section 15 (**Application of Division**)—
 - (a) Section 15 (1)—
Omit “judge”, insert instead “Judge”.
 - (b) Section 15 (2), (3)—
Omit section 15 (2), insert instead:
 - (2) The provisions of this Division shall also have effect if—
 - (a) the chairman of a commission or the sole commissioner is a Judge of the High Court, the Supreme Court of another State or a Territory or the Federal Court; and

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SCHEDULE 1—AMENDMENTS—*continued*

- (b) in the letters patent by which the commission is issued, or in other letters patent under the Public Seal, the Governor declares that the provisions of this Division are to have effect in relation to the commission.
- (3) In this Division—
 - “commissioner” means such a Judge as chairman or sole commissioner.
- (6) Section 17 (**Answers and documents**)—
 - (a) Section 17 (4)—

After “issued”, insert “, or in other letters patent under the Public Seal,”.
 - (b) Section 17 (5)—

After section 17 (4), insert:

 - (5) A declaration under section 15 (2) that the provisions of this Division are to have effect is not sufficient to apply this section unless the declaration specifically states that this section shall apply to and with respect to the inquiry.
- (7) Schedule—

Omit the Schedule.

