

**INDEPENDENT COMMISSION AGAINST CORRUPTION
(AMENDMENT) ACT 1989 No. 28**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Independent Commission Against Corruption Act 1988 No. 35

SCHEDULE 1—AMENDMENTS



**INDEPENDENT COMMISSION AGAINST CORRUPTION
(AMENDMENT) ACT 1989 No. 28**

NEW SOUTH WALES



Act No. 28, 1989

An Act to amend the Independent Commission Against Corruption Act 1988 in relation to the office of Assistant Commissioner and appeal rights and discipline of members of the staff of the Commission, and for other purposes. [Assented to 21 April 1989]

See also Defamation (Independent Commission Against Corruption) Amendment Act 1989.

Independent Commission Against Corruption (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Independent Commission Against Corruption (Amendment) Act 1989.

Commencement

2. This Act commences on a day or days to be appointed by proclamation.

Amendment of Independent Commission Against Corruption Act 1988 No. 35

3. The Independent Commission Against Corruption Act 1988 is amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 88 (**Offences relating to documents or other things**)—

Section 88 (3)—

Before “offence”, insert “indictable”.

(2) Section 104 (**Staff etc. of Commission**)—

(a) Omit section 104 (8).

(b) Section 104 (10)—

Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(c) Section 104 (10)—

Omit “(except in so far as arrangements may be made for that purpose under subsection (8))”, insert instead “(except in so far as may be relevant for the purposes of subsection (15))”.

(d) After section 104 (11), insert:

(12) An appeal does not lie to the Government and Related Employees Appeal Tribunal concerning a promotional or disciplinary matter affecting a person employed under subsection (1).

(13) None of the following matters, and no matter, question or dispute relating to any of the following matters, is an industrial matter for the purposes of the Industrial Arbitration Act 1940:

(a) the appointment of, or failure to appoint, a person to any position as a member of the staff of the Commission;

(b) the removal, retirement, termination of employment or other cessation of office of a person in any such position;

*Independent Commission Against Corruption (Amendment) 1989*SCHEDULE 1—AMENDMENTS—*continued*

(c) any disciplinary proceedings or disciplinary action taken against a person employed under subsection (1).

(14) The Commission may terminate an arrangement under subsection (4) or (5) at any time, and no appeal or other proceedings may be brought, in respect of the termination, by or on behalf of the person concerned.

(15) After the termination of such an arrangement respecting a former member of the staff of the Commission—

(a) disciplinary proceedings or disciplinary action may, in accordance with the procedures applicable to his or her principal employment, be taken against the former member in connection with any act or omission committed while a member of that staff; and

(b) any such act or omission shall, for the purposes of paragraph (a), be taken to have been committed by the former member in the course of or during his or her principal employment; and

(c) no court or tribunal may make an order reinstating or having the effect of reinstating the former member as a member of the staff of the Commission.

(3) Section 109 (**Protection from liability**)—

Omit section 109 (2).

(4) Schedule 1 (**Provisions relating to Commissioner and Assistant Commissioners**)—

(a) Omit clause 3, insert instead:

Basis of offices

3. (1) The office of Commissioner is a full-time office.

(2) The office of Assistant Commissioner may be a full-time office or a part-time office, according to the terms of appointment.

(3) The holder of a full-time office referred to in subclause (1) or (2) is required to hold it on that basis, except to the extent permitted by the Governor.

(b) Clause 8 (**Public Sector Management Act 1988**)—

Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

Independent Commission Against Corruption (Amendment) 1989

SCHEDULE 1—AMENDMENTS—*continued*

(5) Schedule 2 (**Provisions applying to Appointed Members of Operations Review Committee**)—

Clause 8 (**Effect of certain other Acts**)—

Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

[*Minister's second reading speech made in—
Legislative Assembly on 5 April 1989
Legislative Council on 18 April 1989*]



**INDEPENDENT COMMISSION AGAINST CORRUPTION
(AMENDMENT) BILL 1989**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The Defamation (Independent Commission Against Corruption) Amendment Bill 1989 is cognate with this Bill.

The object of this Bill is to amend the Independent Commission Against Corruption Act 1988 so as—

- (a) to provide that the office of Assistant Commissioner may be held on a part-time basis;
- (b) to impose limitations on appeals relating to the appointment, promotion, removal and discipline of members of the staff of the Commission; and
- (c) to make other amendments of a minor nature.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days appointed by proclamation.

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

SCHEDULE 1—AMENDMENTS

Schedule 1 (1) states that the offence under section 88 (3) (fabricating evidence) is an indictable offence. The amendment brings this offence into line with other offences in the Act.

Schedule 1 (2) amends section 104 (staff etc. of Commission):

- (a) Paragraph (a) omits subsection (8), which provides for the making of arrangements regarding the discipline of seconded staff. These matters will be dealt with under other subsections proposed to be inserted by the Bill.
- (b) Paragraph (b) updates a reference to an Act, by way of statute law revision.

Independent Commission Against Corruption (Amendment) 1989

(c) Paragraph (c) makes an amendment consequential on the insertion of the proposed subsection (15).

(d) Paragraph (d) inserts the following new subsections:

Subsection (12) provides that there is no right of appeal to the Government and Related Employees Appeal Tribunal for staff employed by the Commission.

Subsection (13) provides that certain matters relating to the appointment, removal, discipline etc. of staff of the Commission are not industrial matters for the purposes of the Industrial Arbitration Act 1940.

Subsection (14) provides that arrangements for the secondment etc. of staff to the Commission may be terminated at any time, with no right of appeal.

Subsection (15) enables disciplinary action to be taken against persons following termination of their secondment to the Commission (with whatever appeal rights are available), but so that no order of reinstatement to the Commission may be made.

Schedule 1 (3) omits section 109 (2), which deals with the defence of absolute privilege in defamation for publications made to or by the Commission. The substance of this provision is proposed to be inserted in the Defamation Act 1974 by the cognate Bill.

Schedule 1 (4) (a) allows for the office of Assistant Commissioner to be held on a part-time basis, if the instrument of appointment so provides.

Schedule 1 (4) (b) and **Schedule 1 (5)** update a reference to an Act, by way of statute law revision.

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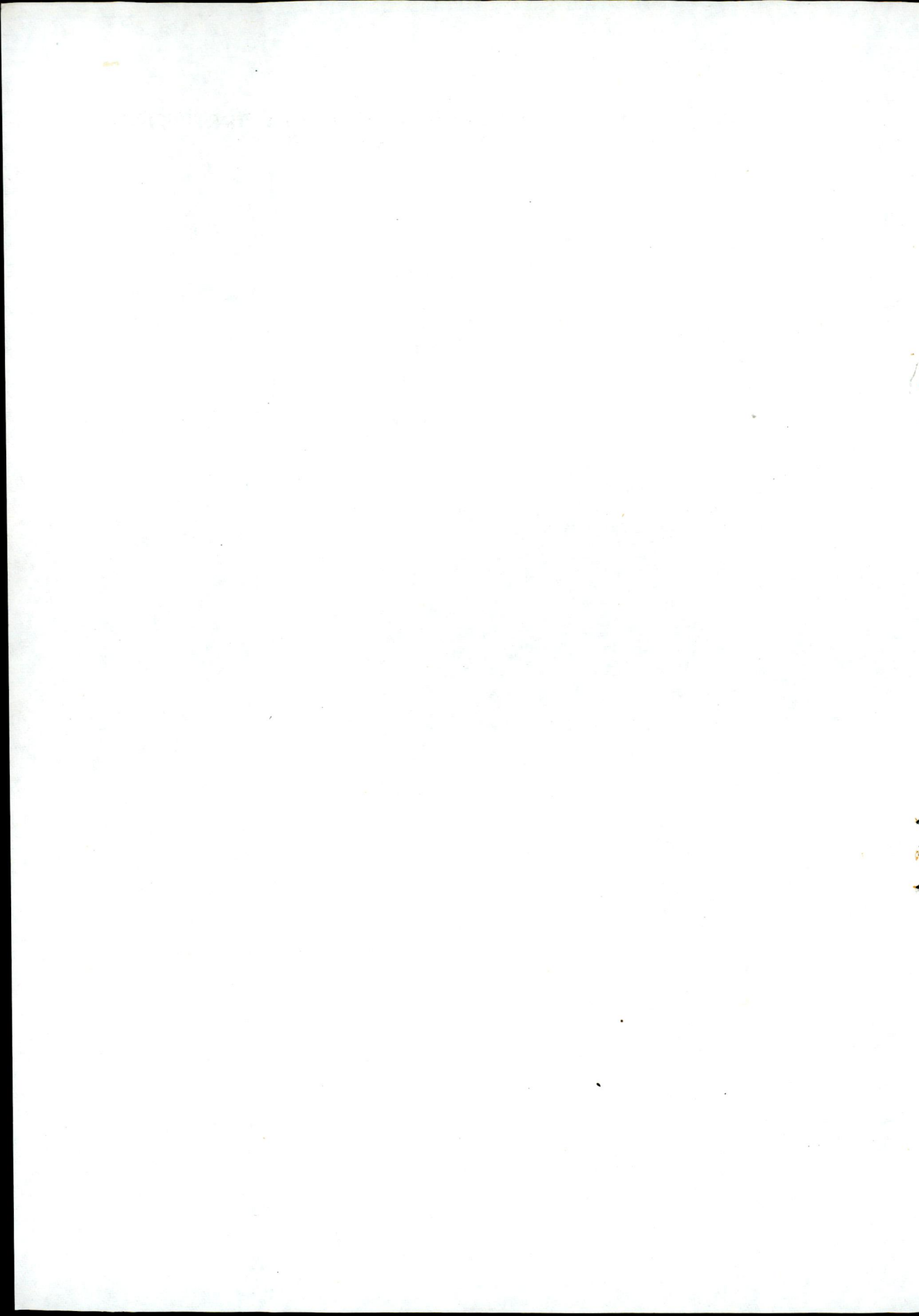
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS



**INDEPENDENT COMMISSION AGAINST CORRUPTION
(AMENDMENT) BILL 1989**

NEW SOUTH WALES



No. , 1989

A BILL FOR

An Act to amend the Independent Commission Against Corruption Act 1988 in relation to the office of Assistant Commissioner and appeal rights and discipline of members of the staff of the Commission, and for other purposes.

See also Defamation (Independent Commission Against Corruption) Amendment Bill 1989.

Independent Commission Against Corruption (Amendment) 1989

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Independent Commission Against Corruption (Amendment) Act 1989.

5 Commencement

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Amendment of Independent Commission Against Corruption Act 1988 No. 35

3. The Independent Commission Against Corruption Act 1988 is
10 amended as set out in Schedule 1.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 88 (**Offences relating to documents or other things**)—

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(2) Section 104 (**Staff etc. of Commission**)—

(a) Omit section 104 (8).

(b) Section 104 (10)—

20 Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(c) Section 104 (10)—

Omit “(except in so far as arrangements may be made for that purpose under subsection (8))”, insert instead “(except in so far as may be relevant for the purposes of subsection (15))”.

25 (d) After section 104 (11), insert:

(12) An appeal does not lie to the Government and Related Employees Appeal Tribunal concerning a promotional or disciplinary matter affecting a person employed under subsection (1).

30 (13) None of the following matters, and no matter, question or dispute relating to any of the following matters, is an industrial matter for the purposes of the Industrial Arbitration Act 1940:

(a) the appointment of, or failure to appoint, a person to any position as a member of the staff of the Commission;

35 (b) the removal, retirement, termination of employment or other cessation of office of a person in any such position;

SCHEDULE 1—AMENDMENTS—*continued*

(c) any disciplinary proceedings or disciplinary action taken against a person employed under subsection (1).

5 (14) The Commission may terminate an arrangement under subsection (4) or (5) at any time, and no appeal or other proceedings may be brought, in respect of the termination, by or on behalf of the person concerned.

(15) After the termination of such an arrangement respecting a former member of the staff of the Commission—

10 (a) disciplinary proceedings or disciplinary action may, in accordance with the procedures applicable to his or her principal employment, be taken against the former member in connection with any act or omission committed while a member of that staff; and

15 (b) any such act or omission shall, for the purposes of paragraph (a), be taken to have been committed by the former member in the course of or during his or her principal employment; and

20 (c) no court or tribunal may make an order reinstating or having the effect of reinstating the former member as a member of the staff of the Commission.

(3) Section 109 (**Protection from liability**)—

Omit section 109 (2).

(4) Schedule 1 (**Provisions relating to Commissioner and Assistant Commissioners**)—

25 (a) Omit clause 3, insert instead:

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30 (3) The holder of a full-time office referred to in subclause (1) or (2) is required to hold it on that basis, except to the extent permitted by the Governor.

(b) Clause 8 (**Public Sector Management Act 1988**)—

35 Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

(5) Schedule 2 (**Provisions applying to Appointed Members of Operations Review Committee**)—

Clause 8 (**Effect of certain other Acts**)—

40 Omit “Public Service Act 1979”, insert instead “Public Sector Management Act 1988”.

