

**STATE DRUG CRIME COMMISSION (AMENDMENT) ACT
1990 No. 50**

NEW SOUTH WALES



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THE UNIVERSITY OF CHICAGO

DEPARTMENT OF CHEMISTRY

LABORATORY OF ORGANIC CHEMISTRY

CHICAGO, ILLINOIS

REPORT OF RESEARCH
BY
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**STATE DRUG CRIME COMMISSION (AMENDMENT) ACT
1990 No. 50**

NEW SOUTH WALES



Act No. 50, 1990

An Act to amend the State Drug Crime Commission Act 1985 so as to rename the State Drug Crime Commission as the New South Wales Crime Commission, to vary the functions of the Commission in minor respects and to increase the penalties for certain offences; to amend the Defamation Act 1974; and for certain other purposes. [Assented to 13 July 1990]

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Drug Crime Commission (Amendment) Act 1990.

Commencement

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

Amendment of State Drug Crime Commission Act 1985 No. 117

3. The State Drug Crime Commission Act 1985 is amended as set out in Schedules 1 and 2.

Amendment of Defamation Act 1974 No. 18

4. The Defamation Act 1974 is amended as set out in Schedule 3.

**SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985**

(Sec. 3)

(1) Section 1 (**Short title**):

Omit "State Drug", insert instead "New South Wales".

(2) Section 3 (**Definitions**):

(a) From section 3 (1), omit the definition of "Commission", insert instead:

"Commission" means the New South Wales Crime Commission constituted by this Act;

(b) From section 3 (1), omit the definition of "investigation", insert instead:

"investigation" means an investigation by the Commission of a matter referred to it under this Act by the Management Committee;

(c) From the definition of "Management Committee" or "Committee" in section 3 (1), omit "State Drug", insert instead "New South Wales".

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

- (d) From paragraph (a) of the definition of "member of the staff of the Commission" in section 3 (1), omit "or (4)".
 - (e) From paragraph (d) of the definition of "member of the staff of the Commission" in section 3 (1), omit "the Police Force", insert instead "a Police Force".
 - (f) Omit paragraph (b) of the definition of "relevant offence" in section 3 (1), insert instead:
 - (b) any other offence that involves substantial planning and organisation and that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques,
 - (g) Omit section 3 (1A).
- (3) Section 5 (**The Commission**):
- From section 5 (1), omit " "State Drug Crime Commission of New South Wales" ", insert instead "New South Wales Crime Commission".
- (4) Section 6 (**Principal functions of the Commission**):
- (a) Before section 6 (2), insert:
 - (1B) Nothing in this section precludes the Commission from inquiring into matters connected with, or arising out of, the exercise of its functions under this or any other Act or law, whether or not those matters are the subject of a reference to the Commission by the Management Committee.
 - (b) From section 6 (2) and (3), omit "in the course of its investigations" wherever occurring.
 - (c) From section 6 (2), omit "evidence to the Attorney General, together with any recommendation as to action the Commission considers should be taken in relation to that evidence.", insert instead:

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

evidence:

(a) in the case of an offence against a law of the Commonwealth, of a Territory or of another State - to the Attorney General; or

(b) in the case of an offence against a law of New South Wales - to the Director of Public Prosecutions,

together with any recommendation as to action the Commission considers should be taken in relation to that evidence.

(d) After section 6 (3), insert:

(3A) If the Commission obtains any information relating to the conduct of an officer of a Government Department, Administrative Office or local or public authority, in his or her capacity as such, the Commission may, if it considers it desirable to do so:

(a) furnish that information or a report on that information to the principal officer of the Department, Office or authority or (if the officer is the principal officer of the Department, Office or authority) to the relevant Minister; and

(b) make to the principal officer or Minister such recommendations (if any) relating to the conduct of the officer as the Commission considers appropriate.

(3B) In subsection (3A):

"officer" includes:

(a) in relation to a Government Department, Administrative Office or local or public authority:

(i) an employee or agent of the Department, Office or authority; or

(ii) a person between whom and the Department, Office or authority there is, or has been, an agreement or arrangement under which the person is

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

providing, or has provided, services to
the Department, Office or authority;
and

(b) in relation to a local or public authority - a
member of the authority;

"**principal officer**", in relation to a Government
Department, Administrative Office or local or public
authority, has the same meaning as it has in section 10.

(e) Omit section 6 (4).

(5) Section 7 (**Liaison with other bodies**):

(a) From section 7 (a), omit "the National Crime Authority
and such law enforcement agencies", insert instead "such
persons or bodies".

(b) From section 7 (b), omit "the National Crime Authority,
the Australian Bureau of Criminal Intelligence, law
enforcement agencies and such persons and other bodies",
insert instead "such persons or bodies".

(6) Section 9 (**Delegation by Commission**):

Omit section 9 (1), insert instead:

(1) The Commission may delegate to a member of the
Commission the exercise of any of its functions other than
this power of delegation.

(7) Section 14 (**Reimbursement of expenses of witnesses**):

Omit "an amount ascertained in accordance with the
prescribed scale or, if there is no prescribed scale,".

(8) Section 18 (**Failure of witnesses to attend and answer questions
etc.**):

Omit section 18 (13).

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

- (9) Section 22 (**Contempt of Commission**):
From section 22 (a), omit "or a member", insert instead "
a member of the Commission or a member of the staff of
the Commission".
- (10) Section 24 (**The Management Committee**):
From section 24 (1), omit "State Drug", insert instead "New
South Wales".
- (11) Section 25 (**Functions of the Management Committee**):
Omit section 25 (2), insert instead:
(2) The Management Committee is not to refer a matter
to the Commission for investigation unless it is satisfied
that ordinary police methods of investigation into the
matter are unlikely to be effective.
- (12) Section 32 (**Staff of Commission**):
(a) From section 32 (1), omit "Public Service Act 1979", insert
instead "Part 2 of the Public Sector Management Act
1988".
(b) Omit section 32 (2) (b) and (3) (b).
(c) From section 32 (3), omit "to be made available", insert
instead "of New South Wales or of the Commonwealth, or
of a Territory or of another State, to be made available (by
way of secondment or otherwise)".
(d) Omit section 32 (4) and (5).
- (13) Section 36 (**Proceedings for offences**):
At the end of section 36, insert:
(2) Notwithstanding any Act or law to the contrary
(including, in particular, section 444 of the Crimes Act
1900), the court by which a person is sentenced to
imprisonment under this Act may direct the sentence to be

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

cumulative on any previous sentence which has been imposed on the person by the court or to which the person is otherwise subject.

(14) Schedule 1 (**Provisions relating to the Members of the Commission**):

(a) Omit clause 1.

(b) After clause 2 (2), insert:

(2A) If no member is appointed to act in the office of the Chairperson, the most senior member (determined by reference to length of service as a member or, where length of service is equal, by reference to such other criterion as the Minister may direct) is to act as chairperson.

(c) After "shall" in clause 2 (5) (b), insert "not".

(d) At the end of clause 6, insert:

(2) Notwithstanding subclause (1), a person need not be so appointed unless the number of members of the Commission has fallen below 2.

(e) After "Minister;" in clause 7 (1) (g), insert "or".

(f) Omit clause 7 (1) (h).

(g) From clause 9 (1), omit "Public Service Act 1979", insert instead "Public Sector Management Act 1988".

(15) Schedule 2 (**Provisions relating to the Procedure of the Commission**):

(a) Omit clause 2, insert instead:

Quorum

2. The quorum for a meeting of the Commission is the Chairperson (or member acting in that position) and any one other member.

(b) From clause 3 (1), omit "or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present".

**SCHEDULE 2 - FURTHER AMENDMENT OF STATE DRUG
CRIME COMMISSION ACT 1985 IN RELATION
TO PENALTIES**

(Sec. 3)

(1) Section 10 (**Commission may require information from certain State agencies**):

From section 10 (4), omit "\$1,000", insert instead "10 penalty units".

(2) Section 13 (**Hearings**):

(a) From section 13 (12), omit "\$2,000", insert instead "100 penalty units".

(b) From section 13 (12), omit "one year", insert instead "2 years".

(3) Section 17 (**Power to obtain documents**):

From section 17 (3), omit "\$1,000", insert instead "10 penalty units".

(4) Section 18 (**Failure of witnesses to attend and answer questions etc.**):

(a) From section 18 (14), omit "\$1,000", insert instead "100 penalty units".

(b) From section 18 (14), omit "6 months", insert instead "2 years".

(5) Section 20 (**False or misleading evidence**):

(a) From section 20 (2), omit "\$20,000", insert instead "500 penalty units".

(b) From section 20 (4), omit "\$2,000", insert instead "100 penalty units".

(c) From section 20 (4), omit "one year", insert instead "2 years".

SCHEDULE 2 - FURTHER AMENDMENT OF STATE DRUG
CRIME COMMISSION ACT 1985 IN RELATION TO
PENALTIES - *continued*

- (6) Section 22 (**Contempt of Commission**):
- (a) Omit "\$2,000", insert instead "100 penalty units".
 - (b) Omit "one year", insert instead "2 years".
- (7) Section 29 (**Secrecy**):
- From section 29 (2), omit "\$5,000", insert instead "50 penalty units".
- (8) Section 37 (**Regulations**):
- From section 37 (2), omit "\$1,000", insert instead "10 penalty units".
-

SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT 1974

(Sec. 4)

- (1) Section 17M:

Insert, in appropriate order:

**Matters arising under the New South Wales Crime
Commission Act 1985**

17M. (1) There is a defence of absolute privilege for a publication to or by the New South Wales Crime Commission or to any member of the Commission or member of the staff of the Commission in his or her capacity as such a member.

(2) This section applies in relation to any hearing before the New South Wales Crime Commission or any other matter relating to the powers, authorities, duties or functions of the Commission.

(3) This section extends to publications made before the commencement of this section.

SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT
1974 - *continued*

- (2) Schedule 2 (**Proceedings of Public Concern and Official and Public Documents and Records**):

At the end of clause 2, insert:

- (19) proceedings at a hearing held in public by the New South Wales Crime Commission.
-

[*Minister's second reading speech made in -
Legislative Council on 9 May 1990
Legislative Assembly on 22 May 1990*]

FIRST PRINT

**STATE DRUG CRIME COMMISSION (AMENDMENT) BILL
1990**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are to amend the State Drug Crime Commission Act 1985 so as:

- (a) to rename that Act as the New South Wales Crime Commission Act 1985; and
- (b) to rename the State Drug Crime Commission as the New South Wales Crime Commission and the State Drug Crime Commission Management Committee as the New South Wales Crime Commission Management Committee; and
- (c) to simplify and generalise the expression "relevant offence" used in that Act; and
- (d) to ensure that the Commission's powers of inquiry are not limited to the Commission's powers to investigate matters referred to it by the Management Committee; and
- (e) to enable the Commission to refer evidence of a New South Wales offence directly to the Director of Public Prosecutions rather than, as is currently the case, to the Attorney General; and
- (f) to enable the Commission to refer information concerning the official conduct of the personnel of certain State agencies to the principal officer of the agency concerned or (if the officer concerned is the principal officer of an agency) to the relevant Minister for the agency; and
- (g) to ensure that the Commission is able to liaise with persons and bodies other than, as is currently the case, merely other law enforcement agencies; and
- (h) to enable the Commission to make use of the services of members of the Police Force of the Commonwealth, or of a Territory or of another State,

State Drug Crime Commission (Amendment) 1990

rather than, as is currently the case, members of the New South Wales Police Force only; and

- (i) to increase certain penalties and to provide for the conversion of all monetary penalties to penalty units; and
- (j) to override a provision that currently restricts the power of a Local Court to impose concurrent sentences on persons convicted of offences against the Principal Act; and
- (k) to make other amendments of a minor, consequential and ancillary nature, and to amend the Defamation Act 1974 so as to allow the Commission the protection of certain provisions of that Act relating to the publication of information to and by, and concerning the proceedings of, the Commission.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be proclaimed.

Clause 3 is a formal provision that gives effect to the Schedules of amendments to the State Drug Crime Commission Act 1985.

Clause 4 is a formal provision that gives effect to the Schedule of amendments to the Defamation Act 1974.

**SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME COMMISSION
ACT 1985**

Schedule 1 (1) amends section 1 (Short title) so as to rename the Principal Act as the New South Wales Crime Commission Act 1985.

Schedule 1 (2) (a) and (c), (3) and (10) amend sections 3 (Definitions), 5 (The Commission) and 24 (The Management Committee) so as to rename the State Drug Crime Commission as the New South Wales Crime Commission and the State Drug Crime Commission Management Committee as the New South Wales Crime Commission Management Committee.

Schedule 1 (2) (b) replaces the definition of "investigation" in section 3 with a new definition that makes it clear that an investigation refers only to the investigation by the Commission of a matter that has been referred to it by the Management Committee.

Schedule 1 (2) (d) and (e) amend the definition of "member of the staff of the Commission" in section 3 as a consequence of the amendments to section 32 to be effected by Schedule 1 (12).

Schedule 1 (2) (f) amends the definition of "relevant offence" in section 3 so as to generalise and simplify that definition.

Schedule 1 (2) (g) omits section 3 (1A) as a consequence of the amendment to the definition of "relevant offence" in section 3 to be effected by Schedule 1 (2) (f).

State Drug Crime Commission (Amendment) 1990

Schedule 1 (4) (a) amends section 6 (Principal functions of the Commission) so as to ensure that the Commission's general powers of inquiry are not limited by the powers of investigation expressly conferred on it by the Principal Act.

Schedule 1 (4) (b) further amends section 6 so as to ensure that the Commission may pass on to the appropriate authorities information or evidence that it obtains otherwise than in the course of its investigations.

Schedule 1 (4) (c) further amends section 6 so as to enable the Commission to refer evidence of a New South Wales offence directly to the Director of Public Prosecutions rather than, as is currently the case, to the Attorney General. Evidence of other offences will continue to be referred to the Attorney General.

Schedule 1 (4) (d) further amends section 6 so as to enable the Commission to refer information concerning the official conduct of the personnel of certain State agencies to the principal officer of the agency concerned or (if the officer concerned is the principal officer of an agency) to the relevant Minister for the agency.

Schedule 1 (4) (e) further amends section 6 so as to abolish the existing requirement that the Commission provide the Management Committee with full details of evidence furnished to the Attorney General or to the Director of Public Prosecutions under that section.

Schedule 1 (5) amends section 7 (Liaison with other bodies) so as to put beyond doubt that the Commission can liaise with persons and bodies other than law enforcement agencies.

Schedule 1 (6) amends section 9 (Delegation by Commission) so as to provide that the only power that the Commission is not empowered to delegate is the power of delegation conferred by that section.

Schedule 1 (7) amends section 14 (Reimbursement of expenses of witnesses) so as to remove the reference in that section to a prescribed scale of costs. No scale of costs is currently prescribed or proposed to be prescribed.

Schedule 1 (8) amends section 18 (Failure of witnesses to attend and answer questions etc.) so as to remove a provision that allows a person to refuse to produce a document or thing that relates to proceedings for an offence in respect of which a charge has been laid.

Schedule 1 (9) extends section 22 (Contempt of Commission) so as to apply the section to persons who hinder or obstruct the Commission's staff in the exercise of the Commission's functions.

Schedule 1 (11) amends section 25 (Functions of the Management Committee) so as to ensure that the Committee may refer matters to the Commission only if they are of a kind in respect of which ordinary police methods of investigation are unlikely to be effective.

Schedule 1 (12) (a) and (14) (g) amend section 32 (Staff of Commission) and Schedule 1 so as to replace references to the repealed Public Service Act 1979 with references to the Public Sector Management Act 1988.

State Drug Crime Commission (Amendment) 1990

Schedule 1 (12) (b) and (d) amend section 32 as a consequence of the enactment of the Public Sector Management Act 1988.

Schedule 1 (12) (c) further amends section 32 so as to enable the Commission to make use of the services of members of the Police Force of the Commonwealth, or of a Territory or of another State, rather than, as is currently the case, members of the New South Wales Police Force only.

Schedule 1 (13) amends section 36 (Proceedings for offences) so as to ensure that sentences of imprisonment imposed in respect of offences arising under the Principal Act may be made to run consecutively, rather than concurrently, with other sentences of imprisonment to which convicted persons may be subject. The proposed subsection will apply notwithstanding any other Act or law to the contrary: in particular, it will apply notwithstanding section 444 of the Crimes Act 1900 which currently restricts the power of a Local Court to impose concurrent sentences.

Schedule 1 (14) (a)-(f) amend Schedule 1 (Provisions relating to the Members of the Commission) so as:

- (a) to abolish the existing age restrictions that apply to members of the Commission; and
- (b) to provide that, in the absence of the Chairperson of the Commission and in the event that an acting chairperson is not appointed, the senior available member (determined by length of service or, where length of service is equal, by such other criterion as the Minister may direct) is to act as chairperson; and
- (c) to provide that a member of the Commission who is acting as chairperson is not to be taken to be absent from his or her office as a member while so acting; and
- (d) to provide that, in the event of a vacancy in the office of a member of the Commission, the vacancy does not have to be filled unless the Commission has ceased to be duly constituted.

Schedule 1 (15) amends Schedule 2 (Provisions relating to the Procedure of the Commission) so as:

- (a) to provide that a quorum of the Commission is to consist of the Chairperson (or acting chairperson) of the Commission together with any one other member; and
- (b) to make an amendment consequential on the amendment to be effected by Schedule 1 (14) (b).

**SCHEDULE 2 - FURTHER AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 IN RELATION TO PENALTIES**

Schedule 2 (2) increases the maximum monetary penalty that may be imposed for an offence under section 13 (Hearings) from \$2,000 to \$10,000 and the maximum term of imprisonment that may be imposed for such an offence from 1 year to 2 years.

Schedule 2 (4) increases the maximum monetary penalty that may be imposed for an offence under section 18 (Failure of witnesses to attend and answer questions etc.)

State Drug Crime Commission (Amendment) 1990

from \$1,000 to \$10,000 and the maximum term of imprisonment that may be imposed for such an offence from 6 months to 2 years.

Schedule 2 (5) (a) increases the maximum monetary penalty that may be imposed for an offence under subsection (2) of section 20 (False or misleading evidence) from \$20,000 to \$50,000.

Schedule 2 (5) (b) and (c) increase the maximum monetary penalty that may be imposed for an offence under subsection (4) of section 20 from \$2,000 to \$10,000 and the maximum term of imprisonment that may be imposed for such an offence from 1 year to 2 years.

Schedule 2 (6) increases the maximum monetary penalty that may be imposed for an offence under section 22 (Contempt of Commission) from \$2,000 to \$10,000 and the maximum term of imprisonment that may be imposed for such an offence from 1 year to 2 years.

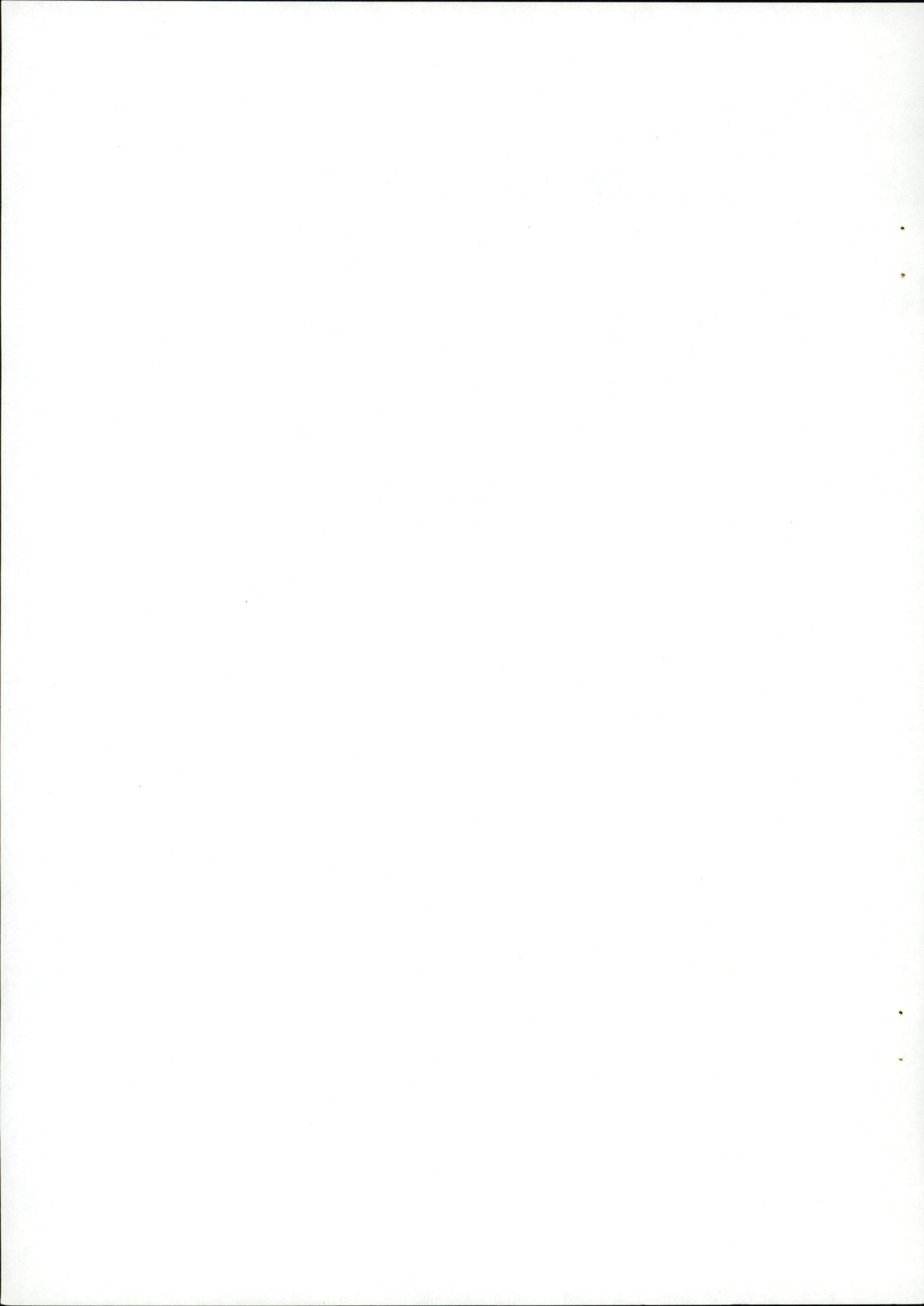
The Schedule also changes, from dollar amounts to penalty units, the manner in which monetary penalties are specified in the Principal Act.

By virtue of section 56 of the Interpretation Act 1987, one penalty unit is equivalent to \$100.

SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT 1974

Schedule 3 (1) inserts a new section 17M. The proposed section confers absolute privilege on publications made to or by the New South Wales Crime Commission in relation to the exercise of the Commission's functions. The proposed section has effect in relation to past, as well as future, publications.

Schedule 3 (2) amends Schedule 2 (Proceedings of Public Concern and Official and Public Documents and Records) so as to extend the protection of section 24 of the Principal Act to reports of proceedings at public hearings of the Commission.



FIRST PRINT

**STATE DRUG CRIME COMMISSION (AMENDMENT) BILL
1990**

NEW SOUTH WALES



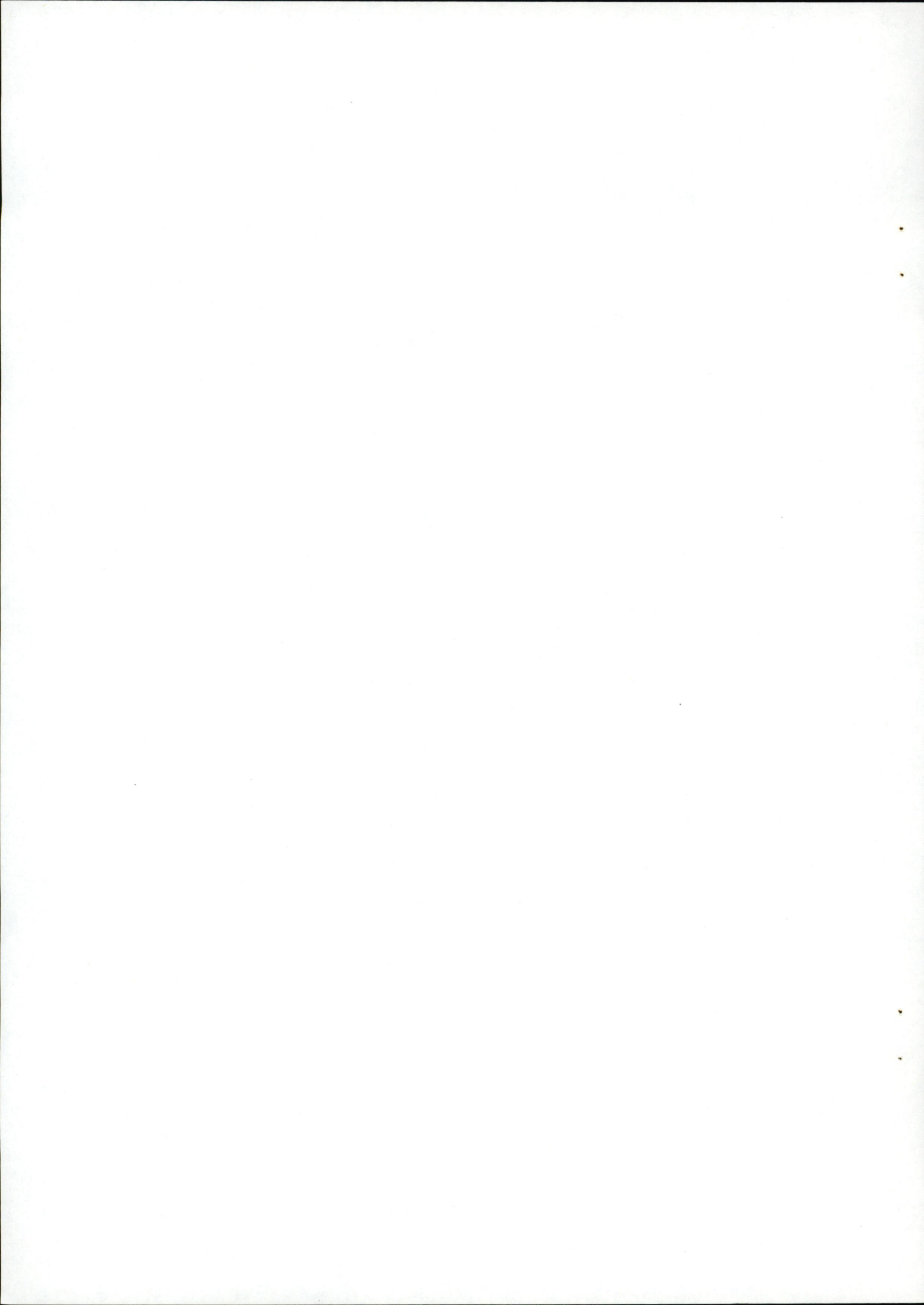
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1985

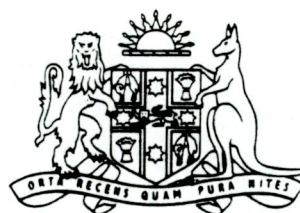
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COMMISSION ACT 1985 IN RELATION TO PENALTIES

SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT 1974



**STATE DRUG CRIME COMMISSION (AMENDMENT) BILL
1990**

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to amend the State Drug Crime Commission Act 1985 so as to rename the State Drug Crime Commission as the New South Wales Crime Commission, to vary the functions of the Commission in minor respects and to increase the penalties for certain offences; to amend the Defamation Act 1974; and for certain other purposes.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the State Drug Crime Commission (Amendment) Act 1990.

Commencement

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

Amendment of State Drug Crime Commission Act 1985 No. 117

3. The State Drug Crime Commission Act 1985 is amended as set out in Schedules 1 and 2.

Amendment of Defamation Act 1974 No. 18

4. The Defamation Act 1974 is amended as set out in Schedule 3.

**SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985**

(Sec. 3)

(1) Section 1 (**Short title**):

Omit "State Drug", insert instead "New South Wales".

(2) Section 3 (**Definitions**):

(a) From section 3 (1), omit the definition of "Commission", insert instead:

"Commission" means the New South Wales Crime Commission constituted by this Act;

(b) From section 3 (1), omit the definition of "investigation", insert instead:

"investigation" means an investigation by the Commission of a matter referred to it under this Act by the Management Committee;

(c) From the definition of "Management Committee" or "Committee" in section 3 (1), omit "State Drug", insert instead "New South Wales".

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

- (d) From paragraph (a) of the definition of "member of the staff of the Commission" in section 3 (1), omit "or (4)".
 - (e) From paragraph (d) of the definition of "member of the staff of the Commission" in section 3 (1), omit "the Police Force", insert instead "a Police Force".
 - (f) Omit paragraph (b) of the definition of "relevant offence" in section 3 (1), insert instead:
 - (b) any other offence that involves substantial planning and organisation and that involves, or is of a kind that ordinarily involves, the use of sophisticated methods and techniques,
 - (g) Omit section 3 (1A).
- (3) Section 5 (**The Commission**):
- From section 5 (1), omit "State Drug Crime Commission of New South Wales" , insert instead "New South Wales Crime Commission".
- (4) Section 6 (**Principal functions of the Commission**):
- (a) Before section 6 (2), insert:
 - (1B) Nothing in this section precludes the Commission from inquiring into matters connected with, or arising out of, the exercise of its functions under this or any other Act or law, whether or not those matters are the subject of a reference to the Commission by the Management Committee.
 - (b) From section 6 (2) and (3), omit "in the course of its investigations" wherever occurring.
 - (c) From section 6 (2), omit "evidence to the Attorney General, together with any recommendation as to action the Commission considers should be taken in relation to that evidence.", insert instead:

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

evidence:

(a) in the case of an offence against a law of the Commonwealth, of a Territory or of another State - to the Attorney General; or

(b) in the case of an offence against a law of New South Wales - to the Director of Public Prosecutions,

together with any recommendation as to action the Commission considers should be taken in relation to that evidence.

(d) After section 6 (3), insert:

(3A) If the Commission obtains any information relating to the conduct of an officer of a Government Department, Administrative Office or local or public authority, in his or her capacity as such, the Commission may, if it considers it desirable to do so:

(a) furnish that information or a report on that information to the principal officer of the Department, Office or authority or (if the officer is the principal officer of the Department, Office or authority) to the relevant Minister; and

(b) make to the principal officer or Minister such recommendations (if any) relating to the conduct of the officer as the Commission considers appropriate.

(3B) In subsection (3A):

"officer" includes:

(a) in relation to a Government Department, Administrative Office or local or public authority:

(i) an employee or agent of the Department, Office or authority; or

(ii) a person between whom and the Department, Office or authority there is, or has been, an agreement or arrangement under which the person is

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

providing, or has provided, services to
the Department, Office or authority,
and

(b) in relation to a local or public authority - a
member of the authority,

"principal officer", in relation to a Government
Department, Administrative Office or local or public
authority, has the same meaning as it has in section 10.

(e) Omit section 6 (4).

(5) Section 7 (**Liaison with other bodies**):

(a) From section 7 (a), omit "the National Crime Authority
and such law enforcement agencies", insert instead "such
persons or bodies".

(b) From section 7 (b), omit "the National Crime Authority,
the Australian Bureau of Criminal Intelligence, law
enforcement agencies and such persons and other bodies",
insert instead "such persons or bodies".

(6) Section 9 (**Delegation by Commission**):

Omit section 9 (1), insert instead:

(1) The Commission may delegate to a member of the
Commission the exercise of any of its functions other than
this power of delegation.

(7) Section 14 (**Reimbursement of expenses of witnesses**):

Omit "an amount ascertained in accordance with the
prescribed scale or, if there is no prescribed scale,".

(8) Section 18 (**Failure of witnesses to attend and answer questions
etc.**):

Omit section 18 (13).

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

- (9) Section 22 (**Contempt of Commission**):
From section 22 (a), omit "or a member", insert instead "
a member of the Commission or a member of the staff of
the Commission".
- (10) Section 24 (**The Management Committee**):
From section 24 (1), omit "State Drug", insert instead "New
South Wales".
- (11) Section 25 (**Functions of the Management Committee**):
Omit section 25 (2), insert instead:
(2) The Management Committee is not to refer a matter
to the Commission for investigation unless it is satisfied
that ordinary police methods of investigation into the
matter are unlikely to be effective.
- (12) Section 32 (**Staff of Commission**):
(a) From section 32 (1), omit "Public Service Act 1979", insert
instead "Part 2 of the Public Sector Management Act
1988".
(b) Omit section 32 (2) (b) and (3) (b).
(c) From section 32 (3), omit "to be made available", insert
instead "of New South Wales or of the Commonwealth, or
of a Territory or of another State, to be made available (by
way of secondment or otherwise)".
(d) Omit section 32 (4) and (5).
- (13) Section 36 (**Proceedings for offences**):
At the end of section 36, insert:
(2) Notwithstanding any Act or law to the contrary
(including, in particular, section 444 of the Crimes Act
1900), the court by which a person is sentenced to
imprisonment under this Act may direct the sentence to be

SCHEDULE 1 - AMENDMENT OF STATE DRUG CRIME
COMMISSION ACT 1985 - *continued*

cumulative on any previous sentence which has been imposed on the person by the court or to which the person is otherwise subject.

- (14) Schedule 1 (**Provisions relating to the Members of the Commission**):
- (a) Omit clause 1.
 - (b) After clause 2 (2), insert:
 - (2A) If no member is appointed to act in the office of the Chairperson, the most senior member (determined by reference to length of service as a member or, where length of service is equal, by reference to such other criterion as the Minister may direct) is to act as chairperson.
 - (c) After "shall" in clause 2 (5) (b), insert "not".
 - (d) At the end of clause 6, insert:
 - (2) Notwithstanding subclause (1), a person need not be so appointed unless the number of members of the Commission has fallen below 2.
 - (e) After "Minister;" in clause 7 (1) (g), insert "or".
 - (f) Omit clause 7 (1) (h).
 - (g) From clause 9 (1), omit "Public Service Act 1979", insert instead "Public Sector Management Act 1988".
- (15) Schedule 2 (**Provisions relating to the Procedure of the Commission**):
- (a) Omit clause 2, insert instead:

Quorum

2. The quorum for a meeting of the Commission is the Chairperson (or member acting in that position) and any one other member.
 - (b) From clause 3 (1), omit "or, in the absence of the Chairperson, another member elected as chairperson for the meeting by the members present".

**SCHEDULE 2 - FURTHER AMENDMENT OF STATE DRUG
CRIME COMMISSION ACT 1985 IN RELATION
TO PENALTIES**

(Sec. 3)

- (1) Section 10 (**Commission may require information from certain State agencies**):
 - From section 10 (4), omit "\$1,000", insert instead "10 penalty units".
- (2) Section 13 (**Hearings**):
 - (a) From section 13 (12), omit "\$2,000", insert instead "100 penalty units".
 - (b) From section 13 (12), omit "one year", insert instead "2 years".
- (3) Section 17 (**Power to obtain documents**):
 - From section 17 (3), omit "\$1,000", insert instead "10 penalty units".
- (4) Section 18 (**Failure of witnesses to attend and answer questions etc.**):
 - (a) From section 18 (14), omit "\$1,000", insert instead "100 penalty units".
 - (b) From section 18 (14), omit "6 months", insert instead "2 years".
- (5) Section 20 (**False or misleading evidence**):
 - (a) From section 20 (2), omit "\$20,000", insert instead "500 penalty units".
 - (b) From section 20 (4), omit "\$2,000", insert instead "100 penalty units".
 - (c) From section 20 (4), omit "one year", insert instead "2 years".

SCHEDULE 2 - FURTHER AMENDMENT OF STATE DRUG
CRIME COMMISSION ACT 1985 IN RELATION TO
PENALTIES - *continued*

- (6) Section 22 (**Contempt of Commission**):
- (a) Omit "\$2,000", insert instead "100 penalty units".
 - (b) Omit "one year", insert instead "2 years".
- (7) Section 29 (**Secrecy**):
- From section 29 (2), omit "\$5,000", insert instead "50 penalty units".
- (8) Section 37 (**Regulations**):
- From section 37 (2), omit "\$1,000", insert instead "10 penalty units".
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SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT 1974

(Sec. 4)

- (1) Section 17M:

Insert, in appropriate order:

**Matters arising under the New South Wales Crime
Commission Act 1985**

17M. (1) There is a defence of absolute privilege for a publication to or by the New South Wales Crime Commission or to any member of the Commission or member of the staff of the Commission in his or her capacity as such a member.

(2) This section applies in relation to any hearing before the New South Wales Crime Commission or any other matter relating to the powers, authorities, duties or functions of the Commission.

(3) This section extends to publications made before the commencement of this section.

SCHEDULE 3 - AMENDMENT OF DEFAMATION ACT
1974 - *continued*

- (2) Schedule 2 (**Proceedings of Public Concern and Official and Public Documents and Records**):

At the end of clause 2, insert:

- (19) proceedings at a hearing held in public by the
New South Wales Crime Commission.
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