



Premier of New South Wales  
Australia

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NMU

27 NOV 2008

Mr Frank Terenzini MP  
Chair  
Committee on the Independent Commission Against Corruption  
Parliament House  
Macquarie St  
SYDNEY NSW 2000

Dear Mr Terenzini

I refer to the letter from the Commissioner of the Independent Commission Against Corruption (Commission) dated August 2008 to the Committee setting out the Commission's view as to the need for a number of amendments to the *Independent Commission Against Corruption Act 1988*.

I also refer to the Committee's October 2008 report on the 2006-2007 Annual Report of the Commission and your letter of 21 October 2008 providing a copy of the report.

One of the amendments requested by the Commission was an amendment to remove the restriction in section 37 which prohibits the use of compulsorily obtained evidence provided under objection to the Commission in disciplinary proceedings and civil proceedings.

This requested amendment raises important issues in relation to the scope of the privilege against self-incrimination.

The Committee's report expresses the view that the Commission's requested amendment to section 37 would require detailed examination and consultation.

I request that the Committee, pursuant to its functions under section 64(1)(b), inquire into and report to Parliament on:

1. Whether the *Independent Commission Against Corruption Act 1988* should be amended to remove the restriction in section 37 which prohibits the use of compulsorily obtained evidence provided under objection to the Independent Commission Against Corruption in disciplinary proceedings;
2. Whether the *Independent Commission Against Corruption Act 1988* should be amended to remove the restriction in section 37 which prohibits the use of compulsorily obtained evidence provided under objection to the Independent Commission Against Corruption in civil proceedings generally or in specific classes of civil proceedings, for example, proceedings involving the recovery of funds or assets that were corruptly obtained; and

3. If either of the amendments referred to in paragraphs 1 or 2 above is made, whether the *Independent Commission Against Corruption Act 1988* should also be amended to make the Independent Commission Against Corruption's current function of assembling evidence for criminal proceedings a primary function.

If amendments of the kind referred to in paragraphs 1 or 2 above are made, there would be a risk that the Commission would use its powers to obtain evidence under compulsion to a greater extent, which may be to the detriment of obtaining admissible evidence for possible criminal proceedings. It is for this reason that advice would be appreciated on whether the Act should also be amended as proposed in paragraph 3 to make the Commission's current function of assembling evidence for criminal proceedings a primary function.

I would be grateful if the Committee would give priority to consideration of these matters.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Nathan Rees', is positioned above the printed name.

**Nathan Rees MP**  
Premier