

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

**NEW SOUTH WALES**



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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.

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**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  
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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 witness**):

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 OF 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 28 (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 3)

(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.

*State Drug Crime Commission (Amendment) 1990*

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