

CRIME AND MISCONDUCT COMMISSION (ADMINISTRATIVE NEGLIGENCE RECTIFICATION) AMENDMENT BILL 2013

Explanatory Notes

Short title

The short title of the bill is the *Crime and Misconduct Commission (Administrative Negligence Rectification) Amendment Bill 2013*

Policy objectives and the reasons for them

The Bill seeks to ensure the security of documents relating to the Fitzgerald Commission of Inquiry that have been released under the *Public Records Act 2002* during the period 1 February 2012 to 5 March 2013.

The media has reported that due to a reclassification by the Crime and Misconduct Commission under the *Public Records Act 2002*, documents relating to the Fitzgerald Inquiry which may contain sensitive information including information about confidential sources and protected witnesses may have been released.

This Bill seeks to prevent the use and dissemination of that information and therefore protect the persons who may be affected by that dissemination.

Achievement of policy objectives

The Bill's policy objectives are achieved by creating an offence in the *Crime and Misconduct Act 2001* prohibiting the copying, use, disclosure, or access to specified documents on or before 8 May 2013.

These are documents that have been accessed under the *Public Records Act 2002* between 1 February 2012 and 5 March 2013.

The Bill is essential to prevent the dissemination of this information.

Alternative ways of achieving policy objectives

Whilst the Crime and Misconduct Commission has reclassified the documents so that they can no longer be publicly released under the *Public Records Act 2002*, there is no other way to ensure the security of the documents that have already been released than to implement this Bill.

The Parliamentary Crime and Misconduct Commission (PCMC) and the Chair of the Crime and Misconduct Commission (CMC) both requested legislative amendment to ensure the security of the documents.

Estimated cost for government implementation

Any costs from implementation will be met from within existing resources.

Consistency with fundamental legislative principles

The Bill is retrospective to 8 March 2013. The retrospective nature of the Bill is necessary to ensure the security of the documents but more importantly to ensure the protection of persons whose safety may adversely affected by their public release.

Consultation

As indicated above, the PCMC and the CMC have both requested amendments be made to ensure the security of the documents released.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland, and is not uniform with or complementary to legislation of the Commonwealth or another state.

Notes on provisions

Clause 1 provides for the Bill's short title.

Clause 2 provides the Act is taken to have commenced on 8 March 2013.

Clause 3 provides that the Act amends the *Crime and Misconduct Act 2001*.

Clause 4 inserts new section 346A which provides an offence, for anyone who from any source has gained access to particular documents. For the purpose of this section document is defined to include information. The documents, disclosed documents under the Bill, are the documents relating to the Fitzgerald Commission of Inquiry which have been accessed from State Archives between 1 February 2012 and 5 March 2013. A person must not, on or before 8 May 2013, copy, use, disclose or gives access to the document to another person.

The penalty for the offence is 500 penalty units or one year's imprisonment.

The offence provision does not apply to the copying, use, disclosure or giving access in compliance with a lawful process requiring production of documents; or giving of evidence to a court or tribunal; as permitted or required by the *Crime and Misconduct Act 2001*; or by the *Commissions of Inquiry Act 1950*; or the *Parliament of Queensland Act 2001*; or the performance of official duties under the *Public Records Act 2002*.