

[Act 1996 No 29]



New South Wales

Police Legislation Amendment Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

This Bill is cognate with the *Police Integrity Commission Bill 1996*.

Overview of Bill

The object of this Bill is to amend the *Police Service Act 1990* and various other Acts to make further provision for dealing with complaints about police and to make amendments consequent on the establishment of the Police Integrity Commission by the proposed *Police Integrity Commission Act 1996*.

* Amended in committee—see table at end of volume.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

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

Clauses 3–8 are formal provisions giving effect to the Schedules of amendments.

Schedule 1 Amendment of Police Service Act 1990

Schedule 1 [1] and **[2]** insert definitions relating to the Police Integrity Commission.

Schedule 1 [3] repeals the existing Part 8A and inserts a new Part dealing with complaints about the conduct of police officers. The new Part 8A departs significantly from the provisions of the existing Part 8A. However, the section numbering of the Part has, as far as possible, been retained so as to follow the sequence of the existing Part.

Some of the features of the new Part 8A are as follows:

- Proposed section 121 sets out the nature of the conduct about which complaints can be made under the Part. This has been widened to include complaints about matters of administration.
- Proposed section 122A states that the Part will be subject to the proposed *Police Integrity Commission Act 1996*, as well as to the *Royal Commission (Police Service) Act 1994*. These Acts, together with the *Ombudsman Act 1974* and the *Police Service Act 1990* itself, provide the legislative scheme for police complaints.
- Division 7 provides for the establishment of a Complaints Information System. The system will make provision for the registration of all police complaints, subject only to matters being excluded for security or similar reasons. The Police Integrity Commission and the Ombudsman will have unrestricted access to the System.
- Complaints will be classified into four categories as follows:
 - Category 1 complaints, which will be as defined in section 67 of the proposed *Police Integrity Commission Act 1996*, and are intended to cover the more significant types of police corruption and misconduct.
 - Category 2 complaints, which will include complaints not covered in other categories.

- Category 3 complaints, which will cover complaints considered to be suitable for conciliation.
- Category 4 complaints, which will include complaints that are appropriate to be dealt with by managerial action.
- The general scheme for dealing with complaints is that Category 1 complaints will be investigated or managed by the Police Integrity Commission, while other categories will be dealt with by the police with oversight or audit by the Ombudsman. Some complaints will still be able to be dealt with by the Ombudsman.

The Police Integrity Commission will have authority to take over any complaint.

- Proposed section 172D allows the Ombudsman to initiate an investigation into police conduct on his or her own motion.

Schedule 1 [3] and [4] make consequential amendments.

Schedule 1 [6], [7], [8] and [9] extend the provisions that currently allow for the dismissal or acceptance of resignation of police officers on the basis of information arising out of the Royal Commission into the Police Service. These provisions will now be extended to information arising during the course of investigation by the Police Integrity Commission.

Schedule 1 [10], [11] and [12] increase the maximum penalties for bribery offences, in line with provisions in the proposed *Police Integrity Commission Act 1996*, and provide for the increased penalties to be imposed in proceedings on indictment.

Schedule 1 [13] enables regulations to be made in connection with the legislative scheme relating to police complaints.

Schedule 2 Amendment of Confiscation of Proceeds of Crime Act 1989

These amendments allow the Commissioner for the Police Integrity Commission to exercise functions under the Act.

Schedule 3 Amendment of Independent Commission Against Corruption Act 1988

The amendments to the Act generally adopt a number of provisions contained in the proposed *Police Integrity Commission Act 1996*.

The Schedule also extends the time within which proceedings for offences under certain provisions of the Act may be commenced to 3 years after the commission of the alleged offences. The offences concerned deal with the making of false statements to the Independent Commission Against Corruption.

Schedule 4 Amendment of Ombudsman Act 1974

The Schedule amends the Act to change the name and role of the Parliamentary Joint Committee established under the *Ombudsman Act 1974*. The Committee will now be known as the Committee on the Office of the Ombudsman and the Police Integrity Commission. Other amendments bring provisions of the Act into line with provisions in the proposed *Police Integrity Commission Act 1996*.

Schedule 5 Amendment of Royal Commission (Police Service) Act 1994

Amendments to the Act bring provisions of the Act into line with provisions in the proposed *Police Integrity Commission Act 1996*.

Schedule 6 Amendment of other Acts

Various other Acts are amended in connection with the Police Integrity Commission. These Acts are:

Defamation Act 1974

Freedom of Information Act 1989

Protected Disclosures Act 1994

Public Sector Management Act 1988

Search Warrants Act 1985

Telecommunications (Interception) (New South Wales) Act 1987

Witness Protection Act 1995.