



NSW Legislative Council Hansard (Proof)

Police Integrity Commission Amendment Bill

Extract from NSW Legislative Council Hansard and Papers Tuesday 19 September 2006 (Proof).

Second Reading

The Hon. HENRY TSANG (Parliamentary Secretary) [6.01 p.m.], on behalf of the Hon. Eric Roozendaal: I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard*.

Leave granted.

The Government established the Police Integrity Commission in 1996 in response to a recommendation by the Wood royal commission. The main function of the Police Integrity Commission is to detect, investigate and prevent serious police misconduct and corruption. In fulfilling this function the commission has broad-ranging oversight and investigative powers under the Police Integrity Commission Act 1996. On 21 February 2005 Cabinet approved the transfer of jurisdiction to investigate civilian members of NSW Police from the Independent Commission Against Corruption to the Police Integrity Commission. This transfer of jurisdiction occurred by amending the definition of "police officer" under the Police Integrity Commission Act 1996 to include all employees of NSW Police.

The effect of the broadened definition of police officer was that all the provisions of the Police Integrity Commission Act that previously dealt with police officers were applied to administrative employees. However, this has resulted in some unexpected anomalies within the legislation. For example, by virtue of the amendment to the definition of "police officer", section 10 (6), which governs the involvement of police officers in carrying out investigations on behalf of or at the direction of the commissioner, applies to administrative employees, although it is certain that the intention of the section was that only qualified police officers be able to undertake investigations.

Administrative employees hold no special office or exercise any special powers. Therefore, the Police Integrity Commission was of the view that administrative employees of NSW Police should not be equated to sworn police officers for all purposes under the Act. Following amendment to the definition of "police officer", both the Police Integrity Commission and NSW Police requested that the Act be further amended to remove the anomaly created by the definition of "police officer" and to establish a more robust system for the investigation, referral and oversight of complaints against unsworn members of NSW Police.

I now turn to the amendments to the Police Integrity Commission Act 1996 and the Independent Commission Against Corruption Act 1988. The bill establishes a system for the investigation, referral and oversight of complaints against members of NSW Police who are not police officers, enables criminal proceedings in respect of certain summary offences under the Act to be brought within a period of three years from their commission, and confers on the Inspector of the Police Integrity Commission the power to conduct investigations into the conduct of former officers of the Police Integrity Commission.

I take the opportunity to address some of the reforms in more detail. The bill provides for a definition of "administrative officer" to be included in the Act. The definition forms the basis for the distinction between the complaints system for unsworn members of NSW Police and the complaints system for NSW Police officers. This definition will also ensure consistency in the definitions of "police officer" and "administrative officer" between the Police Integrity Commission Act 1996 and the Police Act 1990. A definition of corrupt conduct will also be inserted into the Act consistent with the definition of corrupt conduct under the Independent Commission Against Corruption Act 1988.

This provision defines the type of conduct that the Police Integrity Commission will investigate and ensures that administrative members of NSW Police are treated in the same manner as other public servants. This provision will also ensure that corrupt conduct by former administrative officers can be investigated by the Police Integrity Commission. The bill sets out the functions of the Police Integrity Commission regarding administrative officers. These functions include the detection, investigation and prevention of corrupt conduct by administrative officers and the oversight of other agencies in the detection or investigation of corrupt conduct by administrative officers. A new part will be added to the Act that provides for a system for the referral of complaints to the Police Integrity Commission.

The provisions are modelled on sections 10 and 11 of the Independent Commission Against Corruption Act

1988. This part outlines who can make a complaint about corrupt conduct to the Police Integrity Commission and imposes a duty on certain officers, such as the Commissioner of Police, to notify the commission of corrupt conduct by administrative officers. The amendments will ensure that complaints against unsworn members of NSW Police are referred to the commission by NSW Police in a similar manner as they are currently referred to the Independent Commission Against Corruption.

The Act will also be amended to enable certain public officials to make complaints to the Police Integrity Commission about the conduct of administrative officers. In addition to amendments to establish a complaint management system for administrative members of NSW Police, the Police Integrity Commission requested that amendments be made to the limitation period for certain offences under the Act. Section 141 of the Police Integrity Commission Act 1996 will be amended to allow criminal proceedings for certain summary offences under the Act to be brought within the period of three years after their commission.

These provisions are section 25, which makes it an offence to fail to provide information to the Police Integrity Commission, or by providing false information, when requested to do so; section 52, which makes it an offence to publish evidence where the person has been given a direction not to do so by the Police Integrity Commission; section 53, which makes it an offence to publish evidence given at a private hearing of the Police Integrity Commission without authorisation; section 54, which makes it an offence to make disclosures prejudicing investigations being made by the Police Integrity Commission; section 56, which makes it an offence to divulge information acquired by reason of, or in the course of, exercising functions under the Act where not authorised to do so; and section 106, which makes it an offence to fail to comply with a summons issued by the Police Integrity Commission. The current limitation period for these offences is six months from commission.

This amendment will bring the limitation period for these offences in line with the limitation period for an offence under section 104 (c) of the Act. Section 104 (c) prohibits a person from wilfully making any false statement to attempt to mislead, or to attempt to mislead the Police Integrity Commission, an officer of the commission, the inspector of the commission or an officer of the inspector of the commission, in the exercise of functions under the Act. The bill proposes that the limitation period be extended to enable the Police Integrity Commission to prosecute breaches of these offence provisions where it is not provable or apparent that a breach has occurred until after the limitation period has expired, and where the commission is aware of the misconduct and such misconduct is provable at the time of commission of the offence, however the initiation of a prosecution may jeopardise any investigation in progress. The commission advises that a three-year limitation period is reasonable, given the length of the more involved investigations.

The Police Integrity Commission Act 1996 will also be amended to confirm that the conduct of former officers of the Police Integrity Commission may be investigated by the inspector of the commission. It is appropriate that any officer of the commission be investigated for any involvement in corrupt conduct whilst employed with the commission, particularly given his or her role in investigating corrupt conduct by NSW Police officers. The Commissioner of the Police Integrity Commission has the power to investigate former NSW Police officers who may have engaged in serious misconduct and it is appropriate that the Inspector of the Police Integrity Commission has the same powers in respect of former officers of the commission.

Any officer who has engaged in corrupt activities or other misconduct whilst employed by the commission should not escape investigation on the basis that he or she is no longer employed by the commission. This bill will ensure that there continues to be appropriate independent and accountable oversight of the conduct of all NSW Police employees. The proposed amendments to the Police Integrity Commission Act 1996 are essential to ensure appropriate detection, investigation and oversight of complaints against all members of NSW Police. I commend the bill to the House.