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Police Amendment Bill 2007

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POLICE AMENDMENT BILL 2007

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Bill introduced on motion by Mr David Campbell.

Agreement in Principle

Mr DAVID CAMPBELL (Keira—Minister for Police, and Minister for the Illawarra) [7.30 p.m.]: I move:

That this bill be now agreed to in principle.

I am pleased to introduce the Police Amendment Bill 2007. The report on the review of the Police Act 1990 was tabled in the House on 25 October 2006. The review concluded that the policy objectives of the Act remain valid and that the terms of the Act generally remain appropriate for securing those objectives. The report contained 56 recommendations, most of which were for legislative changes to improve the operation of the Police Act, having regard to its policy objectives. Members will undoubtedly recall that a substantial proportion of these recommendations were included in the Police Amendment (Miscellaneous) Bill, which was passed by Parliament in the spring session of 2006. That Act ensured that some of the key recommendations were implemented without delay. These included emphasising the law enforcement role of police in New South Wales with the restoration of the title "New South Wales Police Force"; bringing greater consistency in the employment of senior executive police officers and those of the public sector generally; removing the requirement to categorise complaints against police; removing the statute of limitations for bribery offences; and increasing penalties for persons impersonating a police officer.

The bill I have introduced this evening addresses the remaining recommendations of the Police Act review. These were matters that required further consideration by the Government and further consultation with key stakeholder groups to ensure that any legislative reforms would achieve the outcomes intended by the Police Act review and would be in the public interest. The main bodies consulted on these proposals were the New South Wales Police Force, the Police Integrity Commission, the New South Wales Ombudsman, the Police Association of New South Wales and the Ministry for Police. I thank all the participants in the consultation process who together played an invaluable role in the development of this bill. The proposed amendments in the bill relate to two groups of recommendations: employment-related matters aimed at promoting further consistency between the Police Act and the Public Sector Employment and Management Act, and matters relating to complaints under part 8A of the Police Act.

I will briefly take members through the proposed amendments. As to employment provisions, the Public Sector Employment and Management Act introduced modern and consistent employment standards for persons in the public service, a public authority and a statutory position and, in certain circumstances, for officers in the New South Wales Police Force. Many of these provisions have been incorporated into the Police Act, some in their entirety and others in part. Some provisions were also incorporated into the Police Act by the Police Amendment (Miscellaneous) Act 2006. The bill will advance this administrative reform process by making further amendments to broaden the consistency between the two Acts and to incorporate notes into the Police Act to draw attention to certain employment provisions in the Public Sector Employment and Management Act that already apply to police officers but are, in practice, sometimes overlooked.

It is proposed to amend section 25 of the Police Act to provide that an acting Commissioner of Police is to be appointed by the Minister rather than by the Governor on the recommendation of the Minister. Such acting appointments would only be for short-term periods, such as when the commissioner is on leave. The proposed amendments are consistent with the Public Sector Employment and Management Act and will simplify the current cumbersome administrative process. Section 26 of the Act will be amended to provide that the commissioner or an executive officer may be reappointed before the expiry of the commissioner's or executive officer's term of office. In that case, the commissioner's or executive officer's existing term of office will expire. This provision is similar to section 68 (2) of the Public Sector Employment and Management Act. Section 41 of the Police Act will be amended to provide that a contract of employment of an executive officer may constitute an instrument of appointment. This amendment will remove unnecessary paperwork in the appointment process and is consistent with section 69 (4) of the Public Sector Employment and Management Act.

The commissioner will be empowered to appoint officers to act in non-executive police officer or non-executive administrative officer positions if the position is vacant or the holder is suspended, sick or absent. Currently this situation is dealt with by temporary appointments. These provisions will largely duplicate section 24 of the Public Sector Employment and Management Act. Provision also will be made for the commissioner to retire an executive officer, a non-executive officer or a non-executive administrative officer who is found on medical grounds to be unfit to discharge or to be incapable of discharging the duties of the officer's position. This will be consistent with section 25 of the Public Sector Employment and Management Act. In a similar vein, the position of a non-executive officer or a non-executive administrative officer will become vacant if the officer abandons his or her employment in the New South Wales Police Force. This is an addition to the provisions that outline the ways by which a position becomes vacant. It will bring the Police Act in line with section 26 of the Public Sector Employment and Management Act.

The provisions relating to the employment of temporary employees to carry out work in the New South Wales Police Force have been expanded substantially to capture most of the provisions of the Public Sector Employment and Management Act relating to the employment of temporary employees. The Act will stipulate a maximum period for temporary employment at any one time of three years, rather than the current period of four months, and provide for re-employment of a temporary employee to be in accordance with guidelines issued by the commissioner. The employment of a temporary employee for periods of 12 months or more will be limited to employees selected on merit. A note will be inserted in the Police Act to advise on the provisions of the Public Sector Employment and Management Act that apply to members of the Police Force. They include issues such as cross-agency employment, employees contesting State elections, and the reappointment of employees resigning to contest Commonwealth elections.

The complaints provisions of the bill provide for minor amendments to part 8A of the Police Act, which relates to the management of complaints made against police officers, and improve the capacity of the Ombudsman to report and consult with the Minister for Police and the Commissioner of Police in relation to police complaints. Section 129 of the Police Act will make it clear that complaints made directly to the Police Integrity Commission or the Ombudsman are not required to be entered into the complaints information system unless the Police Integrity Commission or the Ombudsman so directs. This will assist, where required, in protecting the identity of complainants.

Section 144 of the Act will make it clear that the power to investigate a complaint includes the power to take any action necessary to resolve the complaint in the manner the commissioner thinks fit, including alternative dispute resolution. These amendments will assist police to resolve complaints without recourse to full-scale investigations when that is not appropriate and will allow for the more timely resolution of minor complaints. This is supported by section 148A, which will confer on the commissioner an express power to decide to take no further action in relation to a complaint. Section 154 of the Police Act enables the Ombudsman to request the commissioner to review a decision to take no further action in relation to a complaint. These amendments give the commissioner greater control over the management of complaints, and support the role of the Ombudsman in overseeing the management of complaints. I should note that these amendments have been developed in cooperation with the Ombudsman and are supported by the Ombudsman.

I will now address the functions of the Ombudsman relating to complaints. Currently the Ombudsman may make a special report to Parliament at any time about any matter connected with the Ombudsman's functions under the Police Act relating to complaints. Sections 160, 161, 161A and 162 of the Police Act will enable the Ombudsman to report to the Minister for Police and the Commissioner of Police on any such matter. These amendments regarding special reports replace previous provisions. Section 163 (6) of the Act will enable the Ombudsman to publish police information, including critical police information, to the Minister as well as the commissioner.

I point out that, as a result of amendments to the Police Act, there will be a small number of consequential amendments to the Police Integrity Commission Act 1996. Section 74 of the Police Integrity Commission Act provides for the termination of police investigations. This amending bill will provide for the Police Integrity Commission to notify the Commissioner of Police instead of the Ombudsman on the completion of an investigation into a police complaint, or a decision to discontinue an investigation. Schedule 2 contains an amendment enabling the making of regulations containing savings and transitional provisions. In conclusion, I acknowledge the support of the Ministry of Police and the New South Wales Police Force in the formulation of this legislation, particularly the support of Ms Jane Fitzgerald. I acknowledge also the efforts of Ms Emily Whitehead from my office in preparing the bill for its introduction to the House. The Government is pleased to introduce this amending bill to ensure that police are equipped with the most modern and effective legislation to enable them to operate with optimum efficiency. I commend the bill to the House.

Debate adjourned on motion by Mr Adrian Piccoli and set down as an order of the day for a future day.

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