



NSW Legislative Council Hansard Full Day Transcript

Extract from NSW Legislative Council Hansard and Papers Tuesday, 21 September 2004.

POLICE AMENDMENT (SENIOR EXECUTIVE TRANSFERS) BILL **Second Reading**

The Hon. HENRY TSANG [Parliamentary Secretary] [8.42 p.m.]: 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.

I am pleased to introduce the Police Amendment (Senior Executive Transfers) Bill 2004.

This bill replaces the current restrictive Police Senior Executive Service [PSES] permanent transfer arrangements in the Police Act 1990 with the more flexible provisions of the Public Sector Employment and Management Act 2002.

The bill makes it clear that the merit appointment provisions of section 39 of the Act do not apply to transfers. It provides that an unattached senior executive service officer is regarded as holding an equivalent position in NSW Police for the purposes of any provision of the Police Act dealing with the permanent appointment of members of NSW Police.

The bill prevents an officer removed from a senior executive service position from seeking compensation from the Statutory and Other Offices Remuneration Tribunal when he or she consents to a transfer at a lower level of remuneration.

The Commissioner of Police has far less flexibility than other public sector Chief Executive Officers in permanently transferring senior executive officers to other positions.

CEOs from most public sector agencies have authority under the Public Sector Employment and Management Act 2002 to permanently transfer an appropriately qualified officer to "another position or other employment within the agency", following consultation with the officer.

The transfer may be to a position or employment with lower remuneration, if the officer consents.

The commissioner can transfer a senior executive service officer from one executive position to another with the same remuneration, if the transfer is considered to be in the interests of NSW Police.

However, the commissioner cannot transfer the senior executive service officer to a lower remunerated position, even with the officer's consent.

Similarly, the commissioner cannot transfer an unattached senior executive service officer. Existing transfer provisions only allow transfers between positions and unattached officers do not occupy positions.

Further, when the commissioner removes an officer from a senior executive position, he cannot return that officer to another position within NSW Police ... unless the officer was appointed to a PSES position before 1 December 1996 and has maintained a right of return.

Again, the commissioner cannot provide alternative employment for officers who, for personal reasons, may wish to leave a senior executive position, or take up a lower remunerated senior executive position.

A police officer who ceases to be a senior executive officer cannot apply to return at a senior non-executive level.

The officer can only apply to return at constable rank and return to a higher non-executive position through the merit-based promotion process.

This differs from arrangements for former senior executive service officers in the public sector who can apply and compete for any available public sector position.

Policing is highly specialised and police in senior executive positions have in the past enjoyed lifetime careers with NSW Police. By the very nature of a specialised career in policing, it is harder for these officers to take up other employment in the public sector. At the moment officers who join the senior executive service may no longer have a policing career if they cease to be a senior executive service officer for any reason. This may be a disincentive for qualified applicants.

Under the existing arrangements, NSW Police lose the valuable experience of officers who are unable to return to another policing position.

The bill will remove the current provisions of section 60 of the Police Act which restrict the transfer powers of the commissioner.

With the restriction gone, the provisions of section 87 of the Public Sector Employment and Management Act will automatically apply to the permanent transfer of senior executive service officers.

The Commissioner of Police will then have the discretion to offer senior executive officers a permanent transfer to an appropriate non-SES position or to another SES position of equal or lesser rank or remuneration.

The merit appointment provisions of section 39 of the Act will not apply to these transfers, as transfers are a distinct form of appointment.

Similarly, the integrity checking requirements of that section will not apply to SES officers who have already gone through that process and are simply being transferred to another SES position in NSW Police.

The amended section 60 will apply the "variation in remuneration of transfer" provisions of section 89 of the Public Sector Employment and Management Act.

These make it clear that SES officers can be transferred to positions where they are paid by salary and receive benefits such as the compulsory superannuation scheme that attach to that position, rather than the total remuneration package structure that applies to SES positions.

It also prevents officers from appealing to the Government and Related Employees Appeal Tribunal where an SES officer is appointed to a position by way of permanent transfer.

The bill also amends section 53 of the Police Act to be consistent with section 78 of the Public Sector Employment and Management Act.

This prevents a removed SES officer from seeking compensation from the Statutory and Other Offices Remuneration Tribunal when he or she consents to a transfer at a lower level of remuneration.

Section 77 (3) (c) of the Public Sector Employment and Management Act provides that an unattached SES officer holds an equivalent (though notional) executive position in the agency from which he or she was removed, for the purposes of eligibility for permanent transfer and merit appointment. This makes it clear that they are regarded as attached to the agency for particular purposes.

The bill will make corresponding changes to section 51 of the Police Act to provide that an unattached Police Senior Executive Service officer is regarded as holding an equivalent—though notional— position in NSW Police for the purposes of any provision of the Police Act dealing with the permanent appointment of members of NSW Police.

The Police Amendment (Senior Executive Transfers) Bill 2004 will attract more skilled and experienced officers into positions in the Police Senior Executive Service and help ensure quality leadership throughout NSW Police.

I commend the Bill to the House.