

Passed by both Houses



New South Wales

Police Service Amendment (Complaints) Bill 2001

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2001*



New South Wales

Police Service Amendment (Complaints) Bill 2001

Act No , 2001

An Act to amend the *Police Service Act 1990* with respect to complaints; and for other purposes.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Police Service Amendment (Complaints) Act 2001*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Police Service Act 1990 No 47

The *Police Service Act 1990* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 121 Definitions

Omit the definition of *notifiable complaint*. Insert instead:

notifiable complaint means any Category 2 complaint that (in accordance with guidelines agreed between the Police Integrity Commission and the Ombudsman after consultation with the Commissioner) is required to be notified to the Ombudsman.

[2] Section 145 Conduct of investigation

Omit section 145 (3).

[3] Section 167A

Insert before section 168:

167A Offence of making false complaint about conduct of police officer or giving false information

- (1) A person must not make a complaint under this Part knowing the complaint to be false.

Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (2) A person must not, in the course of the investigation of a complaint made under this Part, provide information to any of the following knowing the information to be false or misleading in a material particular:

- (a) the Minister,
- (b) a member of the Police Service,
- (c) the Police Integrity Commission,
- (d) the Inspector of the Police Integrity Commission,
- (e) the Independent Commission Against Corruption,
- (f) the New South Wales Crime Commission,
- (g) the Ombudsman,

- (h) a member of Parliament,
 - (i) a prison officer within the meaning of section 127 (8).
- Maximum penalty: 50 penalty units or imprisonment for 12 months, or both.

- (3) Proceedings for an offence against this section may be instituted at any time within 2 years after the offence is alleged to have been committed.

[4] Section 169A

Insert after section 169:

169A Identity of complainant not to be disclosed

A member of the Police Service must not disclose to any person the identity of a complainant unless the disclosure is made:

- (a) in accordance with guidelines established by the Commissioner, or
- (b) with the consent of the complainant, or
- (c) in accordance with a requirement of or made under this or any other Act, or
- (d) for the purposes of any legal proceedings before a court or tribunal.

[5] Section 206 Protection against reprisals

Insert after section 206 (2):

- (2A) In any proceedings for an offence against this section, it lies on the defendant to prove that the detrimental action shown to be taken against a person was not substantially in reprisal for the person making a protected allegation.
- (2B) Subsection (2A) applies only in relation to a protected allegation that is a protected disclosure within the meaning of the *Protected Disclosures Act 1994*.

[6] Section 206 (4A)

Insert after section 206 (4):

- (4A) Proceedings for an offence against this section may be instituted at any time within 2 years after the offence is alleged to have been committed.

[7] Schedule 4 Savings, transitional and other provisions

Insert at the end of clause 2 (1):

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[8] Schedule 4, Part 16

Insert after Part 15:

**Part 16 Provisions consequent on enactment of
Police Service Amendment (Complaints)
Act 2001**

53 Commissioner's guidelines

The guidelines in force under section 145 (3) immediately before its repeal by the *Police Service Amendment (Complaints) Act 2001* are taken to be guidelines for the purposes of section 169A but may be amended or revoked by the Commissioner.

54 Detrimental action against reprisals

- (1) The provisions of section 206 (2A) and (2B) extend to proceedings for an offence against section 206 committed before the commencement of those provisions, but only if the hearing in respect of the offence has not commenced.

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Schedule 1

Amendments

- (2) Section 206 (4A) extends to proceedings for an offence against section 206 committed less than 6 months before the commencement of that subsection.