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New South Wales

Police Integrity Commission Amendment (Records) Bill 1998

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Police Integrity Commission Act 1996* to make provision regarding records of the Police Royal Commission that remained undisposed of before the Police Royal Commission came to an end.

The Bill will ensure that the Police Integrity Commission is able to initiate or continue investigations into matters referred to in those records or refer any such matters to other agencies. In particular, it will remove any uncertainty as to whether the records came lawfully into the possession of the Police Integrity Commission and as to the legal authority for their being disseminated or their contents being divulged before and after the commencement of the proposed Act. The Bill inserts a new provision into Part 2 of Schedule 3 to that Act, which deals with the continuity of matters relating to the Police Royal Commission.

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 the date of assent.

Clause 3 is a formal provision giving effect to the Schedule of amendments to the *Police Integrity Commission Act 1996*.

Schedule 1 Amendments

Schedule 1 [1] amends section 13 to make it clear that the Police Integrity Commission has functions relating to the records of the Police Royal Commission.

Schedule 1 [2] inserts a new clause 2B into Part 2 of Schedule 3.

Clause 2B (1) defines certain words and expressions used in the clause. In particular, it defines *transferred record* as a record of the Police Royal Commission that has come or comes into the possession, custody or control of the Police Integrity Commission.

Clause 2B (2) provides that the possession by the Police Integrity Commission of transferred records is lawful.

Clause 2B (3) provides that previous dissemination of any transferred record in compliance with a direction of the Police Royal Commissioner is lawful.

Clause 2B (4) and (5) provide that section 56 of the Act (which deals with secrecy and the limited circumstances in which information can be divulged) applies to transferred records.

Clause 2B (6) provides that no liability attaches to any person in connection with any acts or omissions validated by the clause.

Clause 2B (7) makes it clear that the clause has effect despite the secrecy provisions of the *Royal Commission (Police Service) Act 1994*.

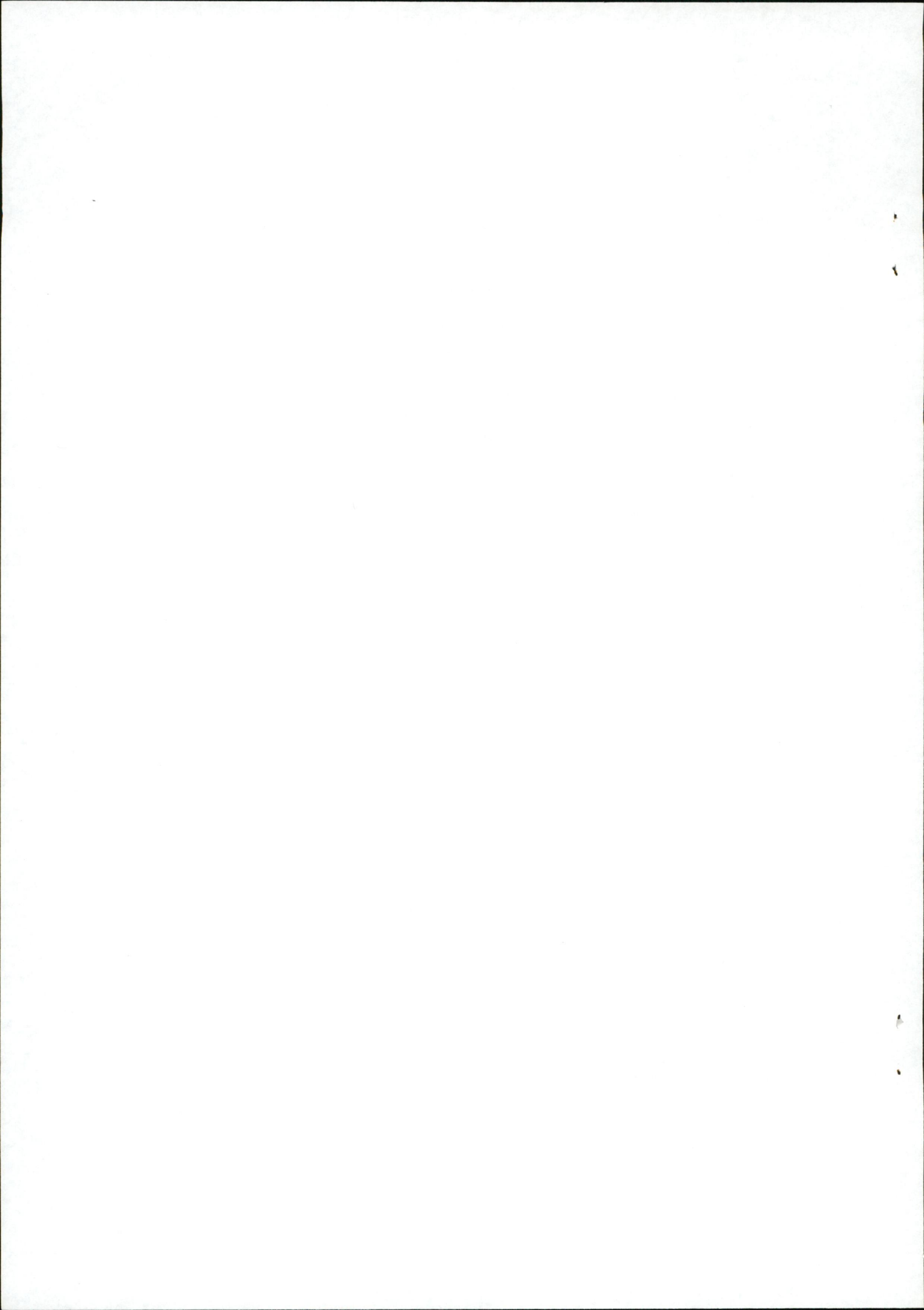
Clause 2B (8) authorises the production under section 56 of the Act of a transferred record to a court in connection with a prosecution or disciplinary proceedings instituted as a result of the Police Royal Commission's inquiry (this is a continuation of the position under the *Royal Commission (Police Service) Act 1994*).

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Clause 2B (9) is inserted for abundant caution, and provides that references to divulging information in transferred records include permanently parting with possession of the records.

Clause 2B (10) provides that the clause does not prevent a transferred record from being dealt with in any other lawful manner, and does not affect the operation of the *Telecommunications (Interception) (New South Wales) Act 1987*. That Act requires certain kinds of records to be destroyed.



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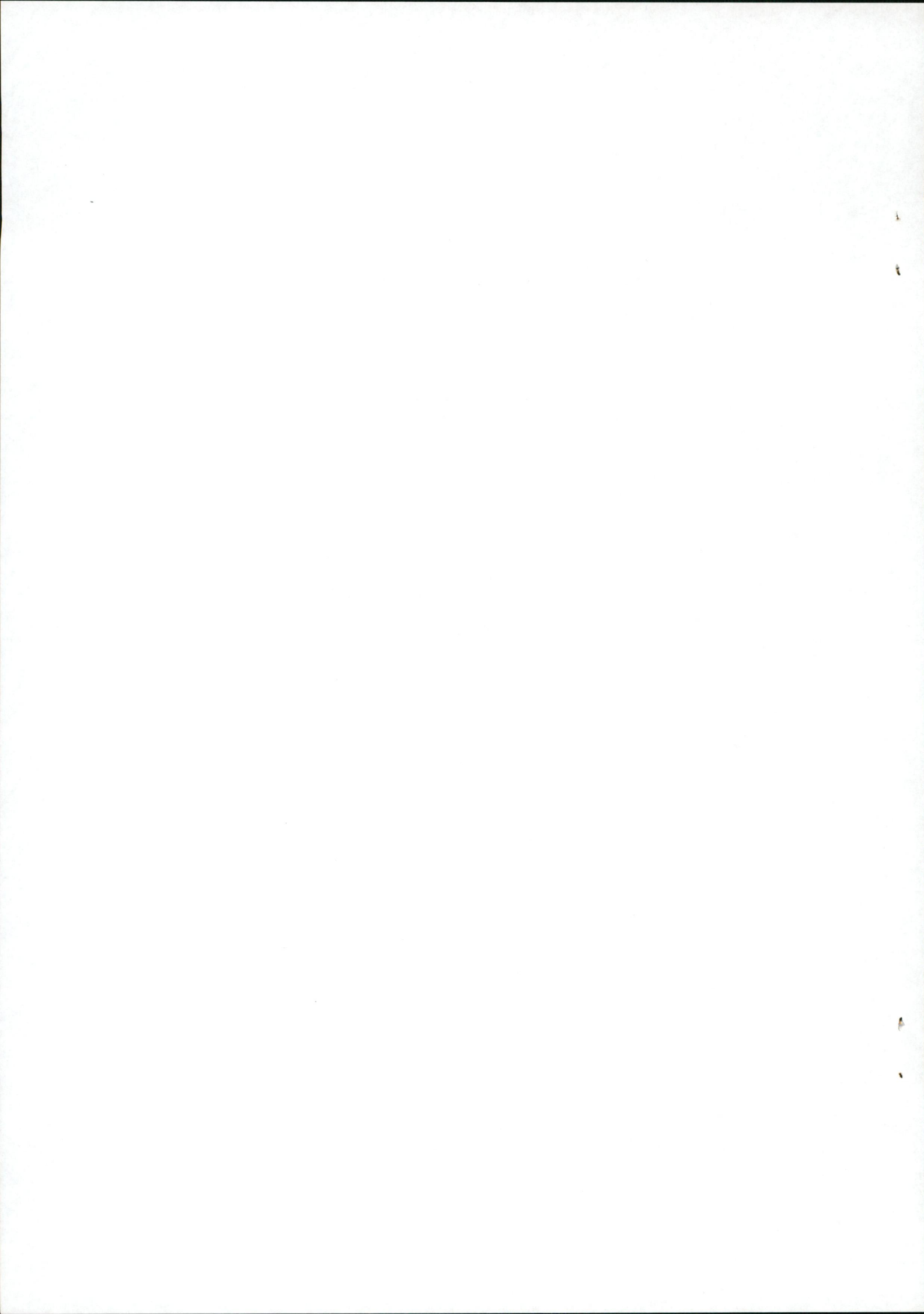


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Police Integrity Commission Amendment (Records) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Police Integrity Commission Act 1996* in relation to the transfer to the Police Integrity Commission of certain records formerly held by the Police Royal Commission, so as to ensure that the Police Integrity Commission is able to initiate or continue investigations into matters referred to in those records or to refer any such matters to other agencies; to validate certain matters; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Police Integrity Commission Amendment (Records) Act 1998*.

2 Commencement

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This Act commences on the date of assent.

3 Amendment of Police Integrity Commission Act 1996 No 28

The *Police Integrity Commission Act 1996* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 13 Principal functions

Insert “, and to deal with records of the Police Royal Commission as provided by this Act” after “this Act” in section 13 (1) (d).

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[2] Schedule 3 Savings, transitional and other provisions (Part 2 Continuity with Police Royal Commission)

Insert after clause 2A:

2B Records of Police Royal Commission

(1) In this clause:

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dissemination of a record includes permanently parting with the possession of the record itself or any part of it.

possession includes custody or control.

record includes any document or thing (including a videotape, audiotape, computer disk, computer tape, computer program, or other electronic material), and includes any information contained in it.

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transferred record means any record of the Police Royal Commission that was in the possession of the Police Royal Commissioner or any officer of the Police Royal Commission and that has come, whether before or after the commencement of this clause, into the possession of the PIC, but does not include a record or class of records that is prescribed by the regulations as excluded from this clause.

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(2) A transferred record is taken at all times and for all purposes to have come lawfully into the possession of the PIC, and the possession of the record by the PIC is taken for all purposes to be lawful.

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Schedule 1 Amendments

- (3) The dissemination of a transferred record, or of information in a transferred record, in purported compliance with a direction of the Police Royal Commissioner under section 30 of the *Royal Commission (Police Service) Act 1994* before the commencement of this clause is taken at all times and for all purposes to be lawful. 5
- (4) Section 56 applies and is taken always to have applied to information in a transferred record as if the information had been acquired by reason of, or in the course of, the exercise of functions under this Act. 10
- (5) Accordingly, and without affecting subclause (3), information comprised in a transferred record is capable, and is taken always to have been capable, of being divulged under section 56 as if the information had been acquired by reason of, or in the course of, the exercise of functions under this Act, and any such divulging of information is taken for all purposes to be lawful. 15
- (6) No civil or criminal liability attaches to, or is taken to have attached to, any person in connection with any act or omission involved in: 20
- (a) the giving of such possession to the PIC, or the receiving of such possession by the PIC, as referred to in subclause (2), or
 - (b) the dissemination of such a transferred record, as referred to in subclause (3), or 25
 - (c) the divulging of such information, as referred to in subclause (5).
- (7) This clause has effect despite section 30 of the *Royal Commission (Police Service) Act 1994*. 30
- (8) In the application of section 56 (3) to a transferred record, a reference in that subsection to a prosecution or disciplinary proceedings is taken to include a reference to a prosecution or disciplinary proceedings instituted, whether before or after the commencement of this clause, as a result of the Police Royal Commission's inquiry (as referred to in section 30 (3) of the *Royal Commission (Police Service) Act 1994*). 35

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- (9) Without affecting the generality of section 56 of this Act and section 30 of the *Royal Commission (Police Service) Act 1994*, it is expressly declared that a reference in those sections and in this clause to the divulging of information, so far as the reference is applicable to information comprising or contained in a transferred record, includes and is taken always to have included a reference to the dissemination of the record. 5
- (10) Nothing in this clause:
- (a) prevents a transferred record from being disposed of or otherwise dealt with in any manner that would be available if this clause had not been enacted, or 10
- (b) affects the operation of the *Telecommunications (Interception) (New South Wales) Act 1987*. 15