

# POLICE INTEGRITY COMMISSION AMENDMENT BILL 2012

## PROOF

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**Bill introduced on motion by Mr Barry O'Farrell.**

### Agreement in Principle

**Mr BARRY O'FARRELL** (Ku-ring-gai—Premier, and Minister for Western Sydney)  
[12.15 p.m.]: I move:

That this bill be now agreed to in principle.

The Government is pleased to introduce this bill to refresh and reform two of the State's important integrity organisations, the Police Integrity Commission and the Office of the Inspector of the Police Integrity Commission. The introduction of this bill is evidence that this Government is taking timely and practical steps to improve integrity arrangements covering law enforcement bodies in this State. While the NSW Police Force and the New South Wales Crime Commission provide exceptional services to the community, unfortunately there are, on occasion, people in those organisations who behave corruptly or who are engaged in misconduct. Such corruption, revealed by the Wood Royal Commission into New South Wales Police Service, led to the establishment of the Police Integrity Commission in 1996. From a global perspective, New South Wales is an early adopter of integrity organisations tasked with tackling corruption and misconduct in State agencies. This Government recognises and acknowledges the valuable contributions made over many years by the Ombudsman, the Independent Commission Against Corruption and the Police Integrity Commission. That said, the Government is determined to ensure that these bodies continually provide effective and efficient services that support and improve key law enforcement and other government bodies in New South Wales.

The reforms in the bill arise from a review concluded late last year into the policy objectives and terms of the Police Integrity Commission Act. The review, which is required under section 146 of the Police Integrity Commission Act, provided an important opportunity to reflect, to consult and to take stock of arrangements for the Police Integrity Commission and the Office of the Inspector. The review cast a wide net. It took submissions from the Police Integrity Commission and the Inspector, the NSW Police Force, the New South Wales Crime Commission, the Independent Commission Against Corruption and the Inspector of the Independent Commission Against Corruption and the New South Wales Ombudsman. The review also carefully considered recommendations made over several years by the Parliamentary Joint Committee on the Office of the Ombudsman and the Police Integrity Commission. I thank the agencies and the parliamentary committee for informing the review with their detailed and constructive submissions.

The review concluded that a role clearly remains for a body, separate from government and reporting to the Parliament, to oversee the integrity of the New South Wales Police Force and

Crime Commission because corruption and misconduct risks inherently coexist with the discretionary exercise of significant coercive powers. The review considered whether the Police Integrity Commission was the most appropriate body to undertake that role in the future. After consulting widely and weighing the issues, the Government decided to preserve the Police Integrity Commission as a stand-alone body supported by reforms, which are implemented in this bill. Consistent with the Government's commitment to transparency and openness, the non-confidential submissions to the review and the review document were published on the Department of Premier and Cabinet's website in November last year.

Reformed regulatory architecture for the Police Integrity Commission is only one part of the Government's commitment to getting the integrity settings right for our State's law enforcement authorities. The other part is the capability and character of the people who lead and supervise the integrity bodies. With this in mind, the Government has recently appointed two distinguished former Supreme Court judges to the positions of Commissioner and Inspector of the Police Integrity Commission. The Hon. Bruce James, QC, commenced his five-year term as Commissioner on 1 January this year, while the Hon. David Levine, QC, took office as Inspector one month later, also for a five-year term. The commission and the office of Inspector are independent of Government and responsible to this Parliament. I am sure all members welcome the appointments of both Mr James and Mr Levine and can be confident of an era of stable and professional relations between the agencies.

I now turn to the key provisions of the Police Integrity Commission Amendment Bill. The bill provides for a more consistent approach to the different types of law enforcement officers covered by the Act. In its current form, the objects of the Act and the functions of the commission place a different emphasis on the three types of officers, that is, sworn officers of the Police Force, non-sworn officers of the Police Force, and Crime Commission officers. This is because the original arrangements under the 1996 Act concerned only sworn police officers and arrangements for non-sworn officers and Crime Commission officers were later added in amending legislation. The bill amends the principal Act to give equal prominence to the three types of officers as outlined in the bill and in regard to the functions of the Police Integrity Commission. In order to achieve consistency, the bill also amends the Act to extend the duty of certain senior officers to notify the Police Integrity Commission of misconduct by sworn police officers. Currently the duty only applies in relation to misconduct of non-sworn police officers and Crime Commission officers.

The Police Integrity Commission holds public hearings, which play an important role in the transparency and accountability of the commission. There is, however, a need to balance the consideration of the public interest and the benefit of public exposure against the potential for undue prejudice to a person's reputation when deciding to hold a public inquiry. Item [6] of the bill amends section 33 of the principal Act, which specifies the criteria that the commission is to consider when determining whether to conduct a hearing wholly or partly in public. The additional criteria are consistent with the requirements for the Independent Commission Against Corruption when it decides whether to hold public hearings.

I now turn to the issue of procedural fairness for people subject to investigations and reports by the Police Integrity Commission. In the past concerns have been expressed about the commission's observance of procedural fairness in certain matters before it. I am particularly aware of the sensitivity of this issue amongst police officers, who have raised the issue with the Government by way of the Police Association of New South Wales. Item [14] of the bill inserts a new section 137A into the Act to require the Police Integrity Commission, before including an adverse comment about a person in a report, to give the person an opportunity to make submissions. This is also known as a "persons to be heard" provision. This new section will help to address concerns about procedural fairness, while allowing the commission to continue to vigorously detect and investigate corruption and misconduct. The "persons to be heard" requirement also will apply to reports of the Inspector.

Members may recall that the powers of the Inspector of the Police Integrity Commission to publish reports have been a matter of contention which, in September last year, led to a public disagreement between the former Inspector of the Police Integrity Commission and the commission. I note that at the time the Member for Toongabbie claimed the Government was not acting quickly enough to ensure that the annual report to Parliament of the Inspector of the Police Integrity Commission was made public. However, in fact, it was the previous Government that failed to implement the multiple recommendations of the parliamentary joint Committee on the Office of the Ombudsman and the Police Integrity Commission. The alarm bells first began ringing on this issue in November 2006, when the parliamentary joint committee recommended that the Act be amended to clarify that the Inspector could report to the Parliament, at his discretion, in relation to any of his statutory functions. Then, in 2009 the parliamentary joint committee recommended that the Inspector's reporting powers be extended even further to permit the Inspector to make a report to any affected party in relation to his functions.

This bill delivers the clarity sought more than five years ago by the parliamentary joint committee and acts where the previous Government failed to act. The bill makes the Inspector's powers consistent with those conferred on the Inspector of the Independent Commission Against Corruption [ICAC]. Specifically, item [11] of the bill provides that the Inspector of the Police Integrity Commission may at any time make a report concerning any matter relating to his functions in section 89—that is, concerning complaints, procedures or operations of the Police Integrity Commission—and provide a report to the commission, to the person who made a complaint or to any other affected person. The bill also provides that the Inspector's power to report to the Parliament is enhanced by amendment to section 101 of the principal Act. Members may note that the bill does not include a provision to implement outcome 14 of the statutory review, that is, that legislation should be introduced to bring special constables in the Security Management Unit within the oversight of the Police Integrity Commission. Drafting of an amendment in relation to this outcome has been deferred to allow the Ministry of Police and Emergency Services to complete a review of all legislative arrangements governing special constables.

These reforms arise from careful analysis of the integrity arrangements for our State's Police

Force and Crime Commission. There was wide consultation during the statutory review and, more recently, direct Government consultation with the Commissioner and the Inspector of the Police Integrity Commission on the reforms arising out of this bill. In some cases, the reforms are overdue, notably in relation to the power of the Inspector to make reports. But, taken together, the reforms will put the operations of the Police Integrity Commission and the Office of the Inspector on a firm footing for the future. I commend the bill to the House.

**Debate adjourned on motion by Mr Paul Lynch and set down as an order of the day for a future day**