



New South Wales

Police Service Amendment (Alcohol and Drug Testing) Bill 1998

Explanatory note

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

Overview of Bill

Section 211A of the *Police Service Act 1990* presently provides for the random or targeted testing of police officers for alcohol or prohibited drugs while they are on duty in accordance with a roster. The object of this Bill is to amend that section so as to provide for the testing of police officers who have been involved while on duty in an incident:

- (a) in which a person has been killed or seriously injured as a result of a police motor vehicle pursuit or police shooting, or
- (b) in which a person has been killed while in police custody,

to ascertain whether or not those officers were affected by alcohol or prohibited drugs.

Except as explained below, testing will follow the current methods which comprise the administration of a breath test and, if that test warrants, a breath analysis (in the case of testing for alcohol) or the provision and testing of a sample of urine or hair (in the case of testing for prohibited drugs). The requirement to undergo a test will be made by an "authorised person" prescribed by the regulations made under the Act.

The amendments will not affect the operation of provisions of the *Traffic Act 1909* which already require the taking and analysis of blood samples from persons (including police officers) attending at or admitted to a hospital for examination or treatment in consequence of a motor accident on a public street. However, the procedures of that Act for taking blood samples in such a case are adopted for the taking of samples where a police officer involved in an incident described above attends or is admitted to a hospital for examination or treatment.

Outline of provisions

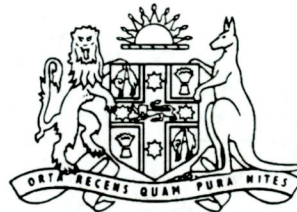
Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Police Service Act 1990* set out in Schedule 1.

Schedule 1 amends section 211A of the *Police Service Act 1990* as described in the above overview.

First print

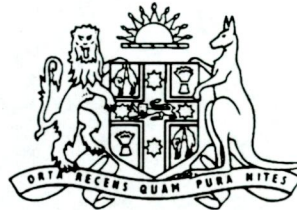


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New South Wales

Police Service Amendment (Alcohol and Drug Testing) Bill 1998

No. , 1998

A Bill for

An Act to amend the *Police Service Act 1990* with respect to the testing of police officers for the presence of alcohol or prohibited drugs.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Police Service Amendment (Alcohol and Drug Testing) Act 1998*.

2 Commencement

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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 211A Testing of police officers for alcohol and prohibited drugs

Insert "pursuant to subsection (1)" after "testing" in section 211A (2). 5

[2] Section 211A (2A)

Insert after section 211A (2):

(2A) If an incident occurs in which a person is killed or seriously injured as a result of a police motor vehicle pursuit or the discharge of a firearm by a police officer, or in which a person is killed while in police custody, an authorised person may require any police officer directly involved in the incident while on duty: 10

(a) to undergo a breath test, or submit to a breath analysis, for the purpose of testing for the presence of alcohol, or 15

(b) to provide a sample of the police officer's urine or hair for the purpose of testing for the presence of prohibited drugs, 20

in accordance with the directions of the authorised person and the regulations.

[3] Section 211A (4)

Insert "This subsection applies only to testing pursuant to subsection (1)." at the end of the subsection. 25

[4] Section 211A (4A)–(4D)

Insert after section 211A (4):

(4A) A requirement pursuant to subsection (2A) to undergo a test or to provide a sample is to be made by an authorised person as soon as practicable after the incident concerned. Any authorised person may administer the breath test or breath analysis in such a case. 30

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Schedule 1 Amendments

- (4B) If a police officer involved attends or is admitted to a hospital for examination or treatment because of the incident, an authorised person may require the officer to provide a sample of the officer's blood, urine or hair in accordance with the directions of a medical practitioner who attends the officer at the hospital. 5
- (4C) Any such medical practitioner must take the sample if informed by the authorised person that the sample is required to be taken by the practitioner, but not a sample of blood if such a sample is taken under section 4F of the *Traffic Act 1909* instead. That section applies to any taking of a sample pursuant to this subsection as if the sample were a sample of blood taken under that section. 10
- (4D) Any sample taken pursuant to subsection (4C) is to be dealt with, and a report on the analysis of the sample is to be provided, in accordance with the regulations. However, nothing in this section or the regulations derogates from the operation of section 4F or 4G of the *Traffic Act 1909* (relating to the taking and analysis of blood samples). 15
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