



Police Amendment (Police Promotions) Bill 2013

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Extract from NSW Legislative Council Hansard and Papers Wednesday 30 October 2013.

Second Reading

The Hon. MICHAEL GALLACHER (Minister for Police and Emergency Services, Minister for the Hunter, and Vice-President of the Executive Council) [3.42 p.m.]: I move:

That this bill be now read a second time.

I am pleased to introduce the Police Amendment (Police Promotions) Bill 2013. The bill seeks to improve the process for promoting NSW Police Force officers. In doing so, it aims to boost the ability of the NSW Police Force to select the best officer for the job, while ensuring integrity, transparency and equity in police promotions. By way of background, in 2006 new legislation established a new promotions system for police officers, with the exception of constables and executive officers. I note that the Government recently introduced the Government Sector Employment Legislation Amendment Bill 2013, which would align the employment of the police executive with the employment of executives elsewhere in the New South Wales public sector. The promotions system was established because of problems with the previous system such as extensive delays filling vacancies, a protracted and costly appeals process, insufficient emphasis on experience and a lack of transparency.

A ministerial inquiry and a Police Integrity Commission investigation confirmed a new approach was needed which resulted in the present promotions model. The present promotions system is a rank-oriented process which recognises both merit and policing experience. Officers must prove their readiness for promotion to a rank rather than a position. Officers must complete a series of competitive stages to be ranked on a promotion list. Officers are appointed from promotion lists for particular ranks, rather than applying for specific positions in specific locations. Generally, the highest ranked officer on the promotion list is offered the vacant promotional position. The reforms included in this bill have arisen out of a review of the promotions system by the Hon. Lance Wright, QC, former President of the Industrial Relations Commission.

The review was required by clause 137 of the Police Regulation 2008. This review clause was included when the promotions system was put in place as a way of making sure the system was working and that any concerns with the system were identified and addressed. And that is exactly what has happened. The Wright review found that the system was generally working well and the central concepts of the promotion system should be retained. But it also made a number of recommendations to improve the system. The majority of the recommendations from the review were accepted by the Government, although the Government has supported several alternative proposals which are practical solutions for the NSW Police Force. Both the NSW Police Force and the Police Association of New South Wales were consulted during the review, the government response to the review, and the development of this bill.

This bill implements the reforms arising from the review that have a legislative basis. Other reforms arising from the review are regulatory or administrative in nature. Changes to the Police Regulation 2008 will be made in tandem with this bill. Reforms that are administrative in nature are being implemented by the NSW Police Force. I turn now to the substance of the bill. The bill improves the way some vacant specialist positions can be filled by way of promotion. The ability of the rank-based promotion system to fill specialist positions was one of the more contentious issues raised in the review. Specialist positions vary, but can broadly be described as those that do not involve general duties at local area commands. Examples of specialist positions are undercover officers, forensic officers, child protection officers, and counterterrorism and special tactics officers. Firstly, the bill provides that certain unfilled specialist positions can be filled by means of an interview-merit selection process, outside the rank-based promotions list.

The Hon. Melinda Pavey: That's on merit.

The Hon. MICHAEL GALLACHER: Something different; breaking new ground. This would apply to vacant specialist positions designated by the commissioner and identified on the internal NSW Police Force intranet website. A position would be considered unfilled if not filled after being advertised to the promotion list twice in the case of inspector or superintendent positions, or four times in the case of sergeant positions—twice to the principal list and twice to the reserve list. Officers would need to satisfy time at rank requirements for the rank immediately below that of the position applied for. For example, a senior constable would need to have at least two years at rank to apply for a sergeant position, and a senior constable could not apply for an inspector position.

The appointment would be on a provisional basis in the first instance. Appointees could be permanently appointed to the position after two years, or such longer period as the commissioner determines, if they have gained the requisite qualifications for placement on the promotion list. If they do not, the officer's provisional appointment will be revoked. The bill also provides that some specialist positions can be identified by the commissioner as requiring unique knowledge, skills or experience, with the highest ranked officer on the promotions list meeting those requirements to be promoted. This is currently the case for positions identified as requiring specialist qualifications, under the current section 66 (5). The bill extends that principle to positions identified as requiring unique knowledge, skills or experience.

The bill gives the commissioner the power to require an officer applying for some specialist positions to undergo psychological assessment of the person's suitability for the position. The officer will not be promoted if the assessment indicates that he or she is unsuitable for the position. The commissioner might require such testing—for example, for child sex assault investigators and undercover positions. This is demanding, intense and emotional work and sometimes it is too much for some officers to handle. A psychological assessment will assist in protecting police from psychological injuries and ensure officers who may be injured by particularly stressful work are not appointed to these roles.

The bill also allows the commissioner to provisionally appoint an officer from the promotion list to a specialist position even though the officer does not hold the required qualification for the position. The officer must obtain the required qualification within a specified period in order to be permanently appointed. If he or she does not, the officer's provisional appointment will be revoked. This may apply, for example, where no officer on the promotion list has the required qualification, but an officer on the promotion list has partially completed the required qualification. This allows the NSW Police Force to fill the position but it allows it to do so without going outside the promotion list.

The bill provides the commissioner with additional powers to select superintendents. The bill allows the commissioner to appoint an officer to a superintendent position who may not be the highest ranked officer on the promotion list. An additional interview and selection committee process will be instituted for superintendent positions. Superintendents are the commissioner's senior management team—our front-line leaders heading up local area commands and specialist commands. This additional selection process will assist the commissioner to select the right officer for the role.

The bill removes senior sergeants from the promotions system. The Wright review identified fundamental problems with the senior sergeant promotion process. For example, the process allowed both substantive sergeants and senior constables to be promoted to senior sergeant. However, the process disadvantaged the higher-ranked substantive sergeants by greatly limiting the number that could participate in the qualification process compared with senior constables. In addition, there are relatively few—fewer than 300—senior sergeant positions within the NSW Police Force, with only around 30 vacancies arising each year. Yet at one stage there were more than 1,000 officers on the promotion list, creating a burden on the NSW Police Force and unfairly raising the expectations of officers on the list.

Once appointed as a senior sergeant, the limited number of senior sergeant positions makes it difficult to gain further experience by transferring to other senior sergeant positions. The bill proposes that senior sergeant positions will instead be filled by way of an expression of interest process. No permanent appointments will be made to senior sergeant, with the officer receiving the salary and benefits of the senior sergeant grade only while occupying the position. This will allow greater ease of movement and development of staff. Appointments will be restricted to substantive sergeants with at least two years at rank. Senior constables will not be eligible for promotion to senior sergeant.

The integrity of police officers is fundamental, more so when they are being promoted into leadership roles. Integrity checks are conducted on officers whilst they qualify for promotion and again before they are appointed. The commissioner already has the power to revoke a promotional appointment or to suspend or remove an officer from a promotion list or the promotions process on integrity grounds. The bill removes the requirement for the commissioner to have regard to when the integrity information was considered. Integrity checks are a central part of the promotions system. The commissioner should not be obliged to inquire as to whether the integrity information is information that has been previously considered. For example, during the promotions process the commissioner may be made aware of a complaint against an officer but chooses to await the finalisation of the complaint, and any adverse integrity finding against the officer, before taking appropriate action. Under the bill's reforms, it would be irrelevant whether the integrity information had been previously considered.

A number of changes are proposed to be made to the Police Regulation 2008 to support the operation of the Act and the reforms proposed by this bill. The more significant changes will support the removal of senior sergeants from the promotions process; will allow officers to be suspended from the promotion list for up to three months, if they have put up their hand for a position and have been offered the position but have subsequently refused the offer without reasonable grounds; will increase required time at rank for inspector and superintendent positions from two years to three years; will ensure officers have a more recent on-the-job performance review score; and will ensure automatic review of very high or very low on-the-job review scores. The bill will improve the police promotions system and help fill managerial positions with the best qualified police. I commend the bill to the

House.