

Agreement in Principle

Mr MICHAEL DALEY (Maroubra—Minister for Police, and Minister for Finance) [10.30 a.m.]: I move:

That this bill be now agreed to in principle.

The Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010 seeks to amend the Police Act 1990 to enable police officers from other jurisdictions to be recognised as law enforcement officers in New South Wales. Under the current Police (Special Provisions) Act 1901, these officers are referred to as special constables. With origins dating back to the early nineteenth century, special constables were first established to deal with civic disturbances at a time when the New South Wales Police Force was still in its infancy. Today there are three types of special constables: serving police officers from other jurisdictions; New South Wales Police Force employees who perform security or protective-type duties, such as those seen in and around Parliament House; and employees from other law enforcement or New South Wales Government agencies, such as the RSPCA and local councils.

While they undertake a range of law enforcement duties, special constables are not sworn New South Wales Police Force officers. The majority of these special constables are police officers from other jurisdictions, and it is solely that category of special constable that this bill deals with. Sworn police officers from other Australian States and Territories, as well as officers from the Australian Federal Police, are called upon from time to time to assist the New South Wales Police Force with their investigations. Police from other jurisdictions working as special constables in New South Wales can undertake a wide range of duties, from regular joint border patrols with officers from the New South Wales Police Force to assisting when there is a declared state of disaster or emergency, such as wide-scale flooding, a cyclone or bushfire, to working on a specific investigation when an incident such as homicide has occurred in a border area.

As I have said, the bill seeks to address issues that affect only one category of special constables—that is, sworn police officers from other jurisdictions. To enable them to effectively carry out their duties, the bill clarifies that this class of special constables may be appointed as recognised law enforcement officers in New South Wales. This proposal will be of particular benefit to those police involved in cross-border operations as the bill seeks to rectify any uncertainty surrounding the validity of special constable authorisations when these operations are underway.

Schedule 1 to the bill contains various amendments to the Police Act 1990. A new part 10B will be introduced into the Act to enable the Commissioner of Police to appoint members of any Australian jurisdiction as recognised law enforcement officers in New South Wales. These appointments may be subject to certain conditions and will be in force for a period to be determined by the commissioner. For example, interstate police may be granted temporary powers or appointments confined to the duration of a particular investigation, such as six to 12 months, while those police officers assigned to border areas or who undertake frequent interstate work may be appointed for an unspecified period—for example, for the period the officer remains at a border station. If an officer ceases to be a member of the police force of their jurisdiction, they cease to be a recognised law enforcement officer by operation of the law contained in this bill.

The bill also gives the commissioner the ability to suspend or revoke a person's appointment as a recognised law enforcement officer if the commissioner is of the opinion that the person is not a suitable person to be recognised as such. There is also provision for accountability mechanisms. The appointment of a person as a recognised law enforcement officer in New South Wales affords them all the functions, powers, immunities, liabilities and responsibilities that a police officer of the rank of constable has. This includes the power a constable has in the Law Enforcement (Powers and Responsibilities) Act 2002, otherwise known as LEPR.

Under the Law Enforcement (Powers and Responsibilities) Act, key police powers such as powers of arrest, search and seizure, and the power to request identification can be exercised only by police officers. Through this bill, references to a police officer in any other Act or statutory instrument will be taken to include a reference to a recognised law enforcement officer. This includes references in the Law Enforcement (Powers and Responsibilities) Act and division 8 A of part 3 of the Crimes Act 1900, which relates to assaults and other actions against police and other law enforcement officers. Schedule 2 to the bill formalises these new arrangements through the repeal of section 101 (1A) (a) of the Police (Special Provisions) Act 1901, which relates to the appointment of police officers from other jurisdictions.

The remaining classes of special constable are not affected by the bill. The Government will be working with these sectors to develop longer-term proposals commensurate with their needs. In doing so, the remaining provisions of the Police (Special Provisions) Act 1901 will stay in effect until a resolution is reached. The bill provides clarity and certainty to police officers from other jurisdictions who rely on their authority as a special constable to legally and effectively discharge the duties and functions of a police officer within New South Wales, particularly in respect of better policing operations. I commend the bill to the House.