

Passed by both Houses



New South Wales

# Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010

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*I certify that this public bill, which originated in the Legislative Assembly, has finally passed the Legislative Council and the Legislative Assembly of New South Wales.*

*Clerk of the Legislative Assembly.  
Legislative Assembly,  
Sydney, , 2010*



New South Wales

## **Police Legislation Amendment (Recognised Law Enforcement Officers) Bill 2010**

Act No , 2010

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An Act to amend the *Police Act 1990* to make provision with respect to the exercise of police powers by police officers of other jurisdictions; and for other purposes.

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*I have examined this bill and find it to correspond in all respects with the bill as finally passed by both Houses.*

*Assistant Speaker of the Legislative Assembly.*

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Police Legislation Amendment (Recognised Law Enforcement Officers) Act 2010*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

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## **Schedule 1      Amendment of Police Act 1990 No 47**

### **[1]    Section 3 Definitions**

Insert in alphabetical order in section 3 (1):

*recognised law enforcement officer* means a person appointed as a recognised law enforcement officer under Part 10B whose appointment is in force.

### **[2]    Part 10B**

Insert after Part 10A:

## **Part 10B Recognised law enforcement officers**

### **207B    Appointment of recognised law enforcement officers**

- (1) The Commissioner may appoint any of the following persons as recognised law enforcement officers (whether by appointing all such persons, any class of them or any individual):
  - (a) members of the Australian Federal Police,
  - (b) members of the police force of another State or a Territory.
- (2) An appointment is to be made:
  - (a) by notice in writing given to each person appointed, or
  - (b) by notice published in the Gazette.
- (3) The notice is to specify any conditions to which the appointment is subject and the term of the appointment if the appointment is for a limited term.
- (4) The Commissioner must not appoint any person as a recognised law enforcement officer unless the person is to be, in the opinion of the Commissioner, subject to an appropriate disciplinary system in respect of the exercise of the person's functions as a recognised law enforcement officer.
- (5) An appointment as a recognised law enforcement officer may be made subject to conditions, including (but not limited to) conditions as to the kinds of functions conferred and the purposes for and circumstances in which such functions may be exercised.

### **207C    Variation and revocation of appointment and imposition of conditions**

- (1) The Commissioner may, at any time by notice:
  - (a) revoke an appointment under section 207B, or

- (b) impose any condition on an appointment under section 207B, or
  - (c) vary or revoke any condition of an appointment under section 207B.
- (2) Without limiting subsection (1), the Commissioner may, at any time by notice, revoke the appointment of a person as a recognised law enforcement officer if the Commissioner is of the opinion that the person is not a suitable person to be a recognised law enforcement officer.
- (3) A notice required to be given under this section must:
- (a) be in writing given to each recognised law enforcement officer concerned, or
  - (b) be published in the Gazette.
- (4) A person who is a recognised law enforcement officer because he or she is a member of the Australian Federal Police or of the police force of another State or a Territory ceases to be a recognised law enforcement officer on ceasing to be such a member.

**207D Oath or affirmation by recognised law enforcement officers**

- (1) Before a person commences to exercise any of the functions of a recognised law enforcement officer, the person must take the oath or make the affirmation of office as a recognised law enforcement officer in accordance with the regulations.
- (2) The regulations may exempt a person or class of persons from the operation of this section.

**207E Recognised law enforcement officers to have police functions**

- (1) A recognised law enforcement officer has and may exercise all the functions (including powers, immunities, liabilities and responsibilities) that a police officer of the rank of constable duly appointed under this Act has and may exercise under any law of the State (including the common law and this Act).
- (2) Those functions extend to functions conferred after the commencement of this section on a police officer of the rank of constable duly appointed under this Act.

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- (3) For the purposes only of subsections (1) and (2), a provision of any Act or statutory instrument applies to a recognised law enforcement officer in the same way as it applies to a police officer in his or her capacity as a police officer and, in particular, the following provisions so apply:
- (a) the *Law Enforcement (Powers and Responsibilities) Act 2002*,
  - (b) Division 8A of Part 3 of the *Crimes Act 1900*,
  - (c) the *Law Reform (Vicarious Liability) Act 1983*,
  - (d) the *Firearms Act 1996*,
  - (e) the *Weapons Prohibition Act 1998*.
- (4) However, the provisions of this Act (except this Part and sections 6, 14 and 213), and the regulations under this Act, applying to police officers do not apply to a recognised law enforcement officer.
- (5) Despite subsections (3) and (4), the regulations may:
- (a) declare that any provision of any Act or statutory instrument applies to a recognised law enforcement officer in the same way as it applies to a police officer in his or her capacity as a police officer, either generally or in prescribed circumstances, and
  - (b) provide that any such provision applies to a recognised law enforcement officer with such modifications as may be prescribed, and
  - (c) declare that any provision of any Act or statutory instrument that applies to a police officer in his or her capacity as a police officer does not apply to a recognised law enforcement officer, either generally or in prescribed circumstances.
- (6) The conferral of functions by this section on a recognised law enforcement officer is subject to any applicable conditions of the officer's appointment as a recognised law enforcement officer.
- (7) The regulations may make provision for or with respect to identification requirements for, or the wearing of uniforms by, recognised law enforcement officers.
- (8) A reference in this section to a police officer in his or her capacity as a police officer includes a reference to a police officer in his or her capacity as a member of the NSW Police Force.

**[3] Schedule 4 Savings, transitional and other provisions**

Insert at the end of clause 2 (1):

*Police Legislation Amendment (Recognised Law Enforcement Officers) Act 2010*

**[4] Schedule 4, Part 26**

Insert after Part 25:

**Part 26 Provisions consequent on enactment of  
Police Legislation Amendment  
(Recognised Law Enforcement Officers)  
Act 2010**

**78 Existing special constables**

- (1) A person appointed as a special constable under section 101 (1A) (a) of the *Police (Special Provisions) Act 1901* immediately before the repeal of that paragraph ceases to hold the office of special constable on that repeal.
- (2) The repeal of section 101 (1A) (a) of the *Police (Special Provisions) Act 1901* does not affect the validity of the exercise of any function by a special constable before that repeal or any proceedings initiated by a special constable before that repeal.

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**Schedule 2      Amendment of Police (Special  
Provisions) Act 1901 No 5**

- [1]    **Section 101 Magistrates or Justices may appoint special constables**  
Omit section 101 (1A) (a).
- [2]    **Section 101 (4)**  
Omit the subsection.