

First print



New South Wales

# Police Service Amendment Bill 1995

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to provide for the summary dismissal from the Police Service of corrupt police officers, and
- (b) to provide for the acceptance of the resignation of police officers on the recommendation of the Police Royal Commission.

The Bill provides for a procedure in which the Commissioner of Police can make a recommendation to the Minister, based on information arising out of the Police Royal Commission that the police officer concerned has engaged in corrupt conduct, that the officer should be dismissed. An order by the Minister will then effect the dismissal.

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## Outline of provisions

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

**Clause 2** provides that the proposed Act will commence on a day to be proclaimed.

**Clause 3** amends the *Police Service Act 1990*. Proposed Division 1A of Part 9 of the Act provides for the procedure described above. This procedure for the summary dismissal of corrupt police officers will prevail over any other provision of the Act to the extent of any inconsistency.

**Proposed section 181B** allows the Commissioner of Police to recommend that the Minister dismiss a police officer from the Police Service. A recommendation is to be made only on the basis of information arising out of the Police Royal Commission that the officer has engaged in corrupt conduct.

**Proposed section 181C** ensures that the police officer who is the subject of the recommendation is given an opportunity to make a submission to the Minister, and this submission must be taken into consideration by the Minister.

**Proposed section 181D** enables the Minister, by written order, to dismiss the police officer after the Minister has considered the recommendation and any submission by the officer or other advice received by the Minister. If the Minister decides not to dismiss the officer, disciplinary action may still be taken against the officer.

**Proposed section 181E** provides that the Minister's decision is not subject to any review or appeal process.

**Proposed section 181F** requires the Commissioner of Police (or the Police Board in the case of executive police officers) to accept the resignation of a police officer if the Police Royal Commission has recommended that the officer be allowed to resign.

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New South Wales

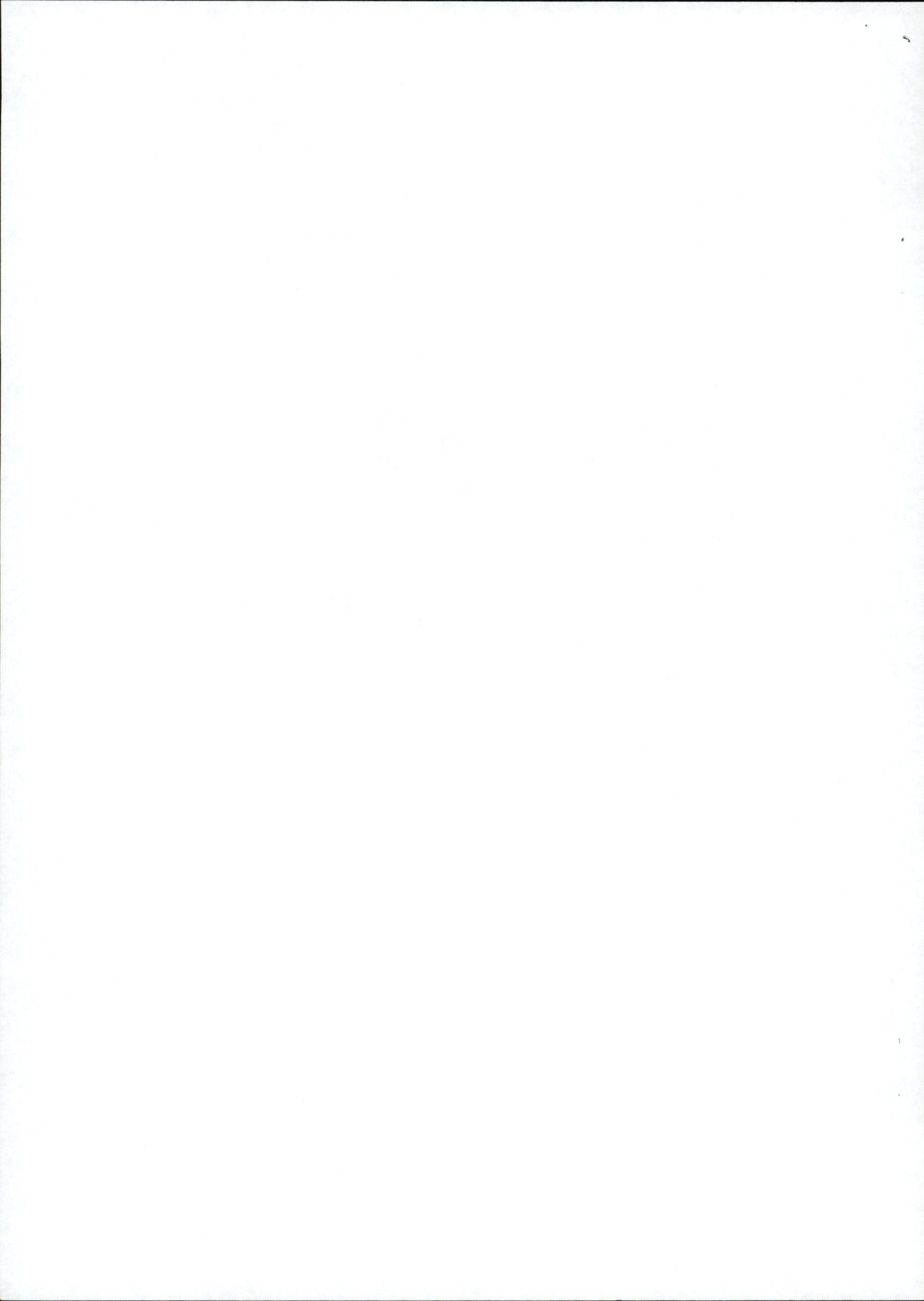
# Police Service Amendment Bill 1995

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New South Wales

## Police Service Amendment Bill 1995

No. , 1995

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### **A Bill for**

An Act to amend the *Police Service Act 1990* to provide for the dismissal of police officers on the basis of information arising out of the Police Royal Commission, and for the resignation of police officers on the recommendation of that Commission.

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

**1 Name of Act**

This Act is the *Police Service Amendment Act 1995*.

**2 Commencement**

This Act commences on a day to be appointed by proclamation. 5

**3 Amendment of Police Service Act 1990 No 47**

The *Police Service Act 1990* is amended by inserting after Division 1 of Part 9 the following Division:

**Division 1A Dismissal and resignation of police officers—Police Royal Commission** 10

**181A Definition and operation of Division**

(1) In this Division:

*Police Royal Commission* means the Royal Commission to which the *Royal Commission (Police Service) Act 1994* applies. 15

(2) This Division prevails to the extent of any inconsistency with any other provision of this Act.

**181B Recommendation for dismissal of police officers—information arising out of Police Royal Commission**

(1) The Commissioner may recommend in writing to the Minister that a police officer be dismissed from the Police Service by the Minister in accordance with this Division. 20

(2) The Commissioner can make such a recommendation only if the Commissioner has formed the opinion, based on information arising out of the Police Royal Commission, that the officer has 25

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engaged in corrupt conduct (or any other conduct constituting an indictable offence) and is no longer a fit and proper person to hold a position in the Police Service.

**181C Submission by police officer**

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- (1) The Minister must give the police officer concerned a copy of the recommendation made by the Commissioner. The officer must be given an opportunity to make a written submission to the Minister within 21 days of receiving the copy. 10
- (2) The Minister must take into consideration any such submission. The Minister may also obtain the advice of such persons or bodies as the Minister thinks appropriate.

**181D Dismissal by Minister**

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- (1) After considering the Commissioner's recommendation, and any submission by the police officer or other advice obtained by the Minister, the Minister may, by written order, dismiss the officer from the Police Service if satisfied that there are reasonable grounds for doing so. The dismissal takes effect when the order is made. 20
- (2) The Minister is to advise the Commissioner if the Minister decides not to dismiss the police officer. Such a decision does not prevent any other action being taken against the police officer (including disciplinary action under section 173). 25

**181E Minister's decision final**

A decision by the Minister under this Division is not subject to any review or appeal process other than by the Supreme Court. 30

**181F Acceptance of resignation of police officers in certain cases**

The Commissioner (or in the case of an executive officer within the meaning of section 32, the Police Board) is required to accept the resignation of a police officer from the Police Service if: 5

- (a) the officer tenders his or her resignation, and
- (b) the Police Royal Commission has recommended that the officer be allowed to resign. 10



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New South Wales

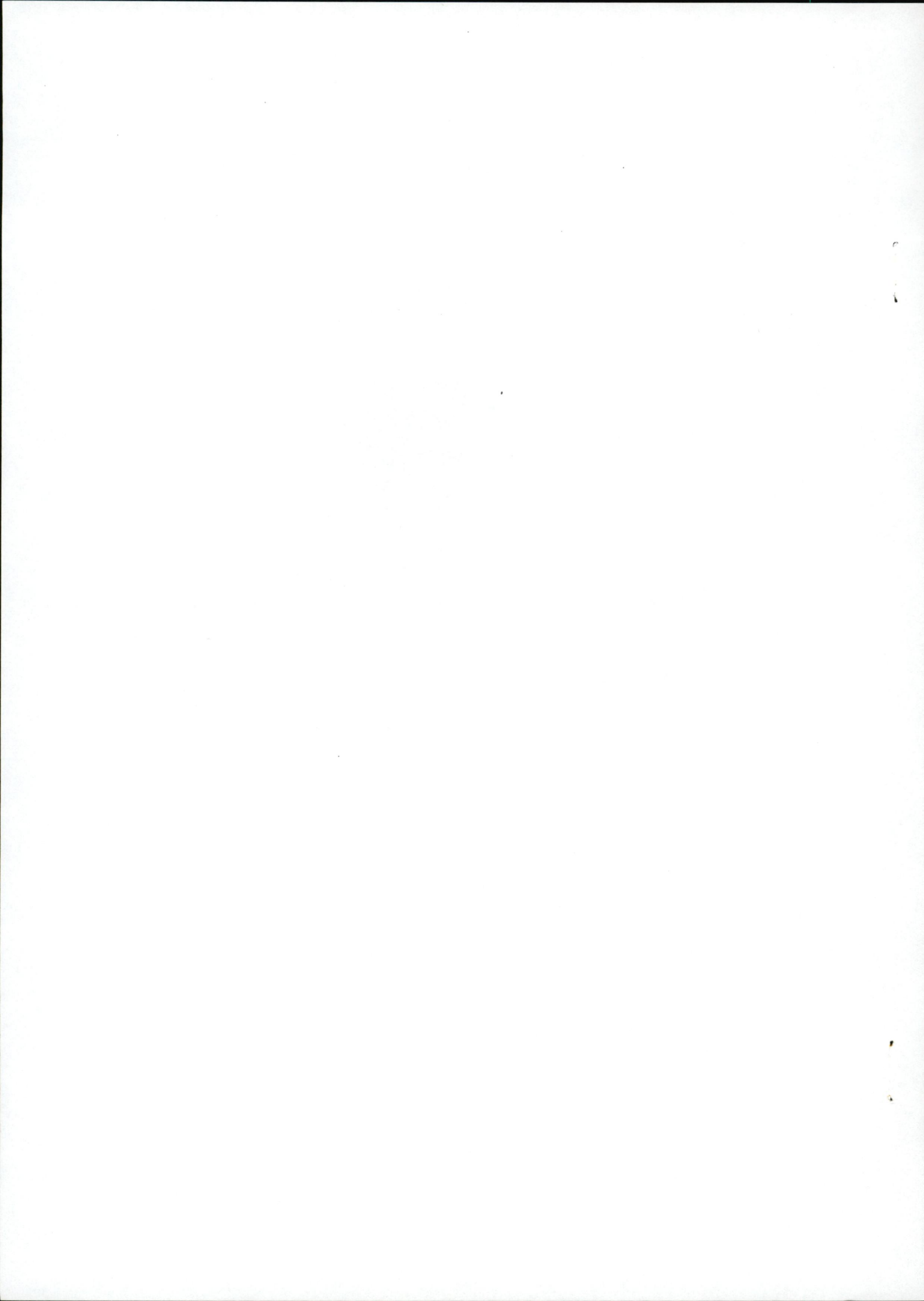
# Police Service Amendment Bill 1995

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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Clerk of the Legislative Assembly.  
Legislative Assembly*



New South Wales

## **Police Service Amendment Bill 1995**

Act No     , 1995

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An Act to amend the *Police Service Act 1990* to provide for the dismissal of police officers on the basis of information arising out of the Police Royal Commission, and for the resignation of police officers on the recommendation of that Commission.

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

**1 Name of Act**

This Act is the *Police Service Amendment Act 1995*.

**2 Commencement**

This Act commences on a day to be appointed by proclamation. 5

**3 Amendment of Police Service Act 1990 No 47**

The *Police Service Act 1990* is amended by inserting after Division 1 of Part 9 the following Division:

**Division 1A Dismissal and resignation of police officers—Police Royal Commission 10**

**181A Definition and operation of Division**

(1) In this Division:

*Police Royal Commission* means the Royal Commission of inquiry issued by the Governor by letters patent under the Public Seal on 13 May 1994, appointing the Honourable James Roland Tomson Wood sole commissioner to make inquiry into, and report on, the operations of the New South Wales Police Service. 15

(2) This Division prevails to the extent of any inconsistency with any other provision of this Act. 20

**181B Dismissal of police officers—information arising out of Police Royal Commission**

(1) The Commissioner may, by order in writing, dismiss a police officer from the Police Service if the Commissioner has formed the opinion, based on information arising out of the Police Royal Commission, that the officer: 25

- 
- (a) has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and
- (b) is no longer a fit and proper person to hold a position in the Police Service. 5
- (2) The dismissal takes effect when the order is made.
- (3) Before deciding whether to dismiss a police officer under this section, the Commissioner must:
- (a) give the officer a notice setting out the grounds on which the Commissioner has formed the opinion referred to in subsection (1), and 10
- (b) give the officer an opportunity to make a written submission to the Commissioner within 21 days of receiving the notice, and 15
- (c) take into consideration any such submission received within that period.
- (4) Section 182 (Appeal to GREAT against disciplinary decision of Commissioner) does not apply to or in respect of the decision by the Commissioner to dismiss a police officer under this section. 20
- (5) Without limiting the generality of section 218 (*Industrial Relations Act 1991* not affected), nothing in this section affects Part 8 (Unfair dismissals) of Chapter 3 of the *Industrial Relations Act 1991*. 25

**181C Acceptance of resignation of police officers in certain cases**

The Commissioner (or in the case of an executive officer within the meaning of section 32, the Police Board) is required to accept the resignation of a police officer from the Police Service if: 30

- (a) the officer tenders his or her resignation, and
- (b) the Police Royal Commission has recommended that the officer be allowed to resign.

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Dem (Kirkby)

LEGISLATIVE COUNCIL

Police Service Amendment Bill 1995

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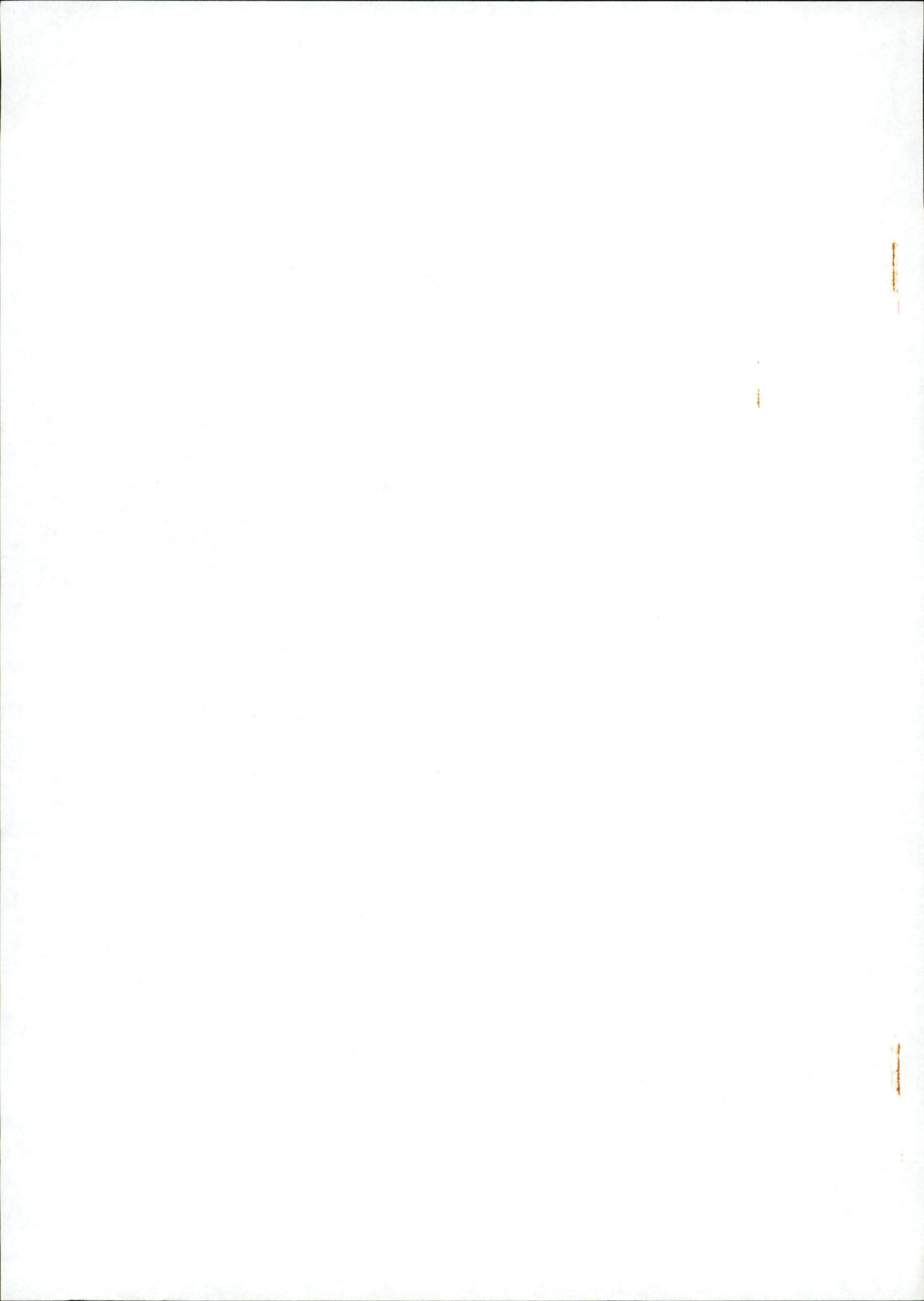
Amendments to be moved in Committee

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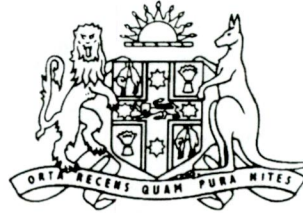
- 1 Page 2, clause 3, proposed section 181B, lines 22 to 28. Omit all words on those lines, insert instead:

**181B Dismissal of police officers based on evidence given at Police Royal Commission**

- (1) The Police Board is, by this section, authorised to make an order in writing dismissing a police officer from the Police Service. The Police Board may do so if it has formed the opinion, based on evidence given at the Police Royal Commission, that the officer:
- 2 Page 3, clause 3, proposed section 181B, line 8. Omit "Commissioner", insert instead "Police Board".
- 3 Page 3, clause 3, proposed section 181B, line 10. Omit "Commissioner", insert instead "Police Board".
- 4 Page 3, clause 3, proposed section 181B, line 14. Omit "Commissioner", insert instead "Police Board".
- 5 Page 3, clause 3, proposed section 181B. After line 17, insert:
- (3) If the Commissioner decides not to dismiss the police officer concerned, the Commissioner must provide the Minister with a written report setting out the Commissioner's reasons for deciding not to dismiss the officer.
- 6 Page 3, clause 3, proposed section 181B, lines 18 to 21. Omit all words on those lines.
- 7 Page 3, clause 3, proposed section 181C, lines 28 to 30. Omit "Commissioner (or in the case of an executive officer within the meaning of section 32, the Police Board)", insert instead "Police Board".
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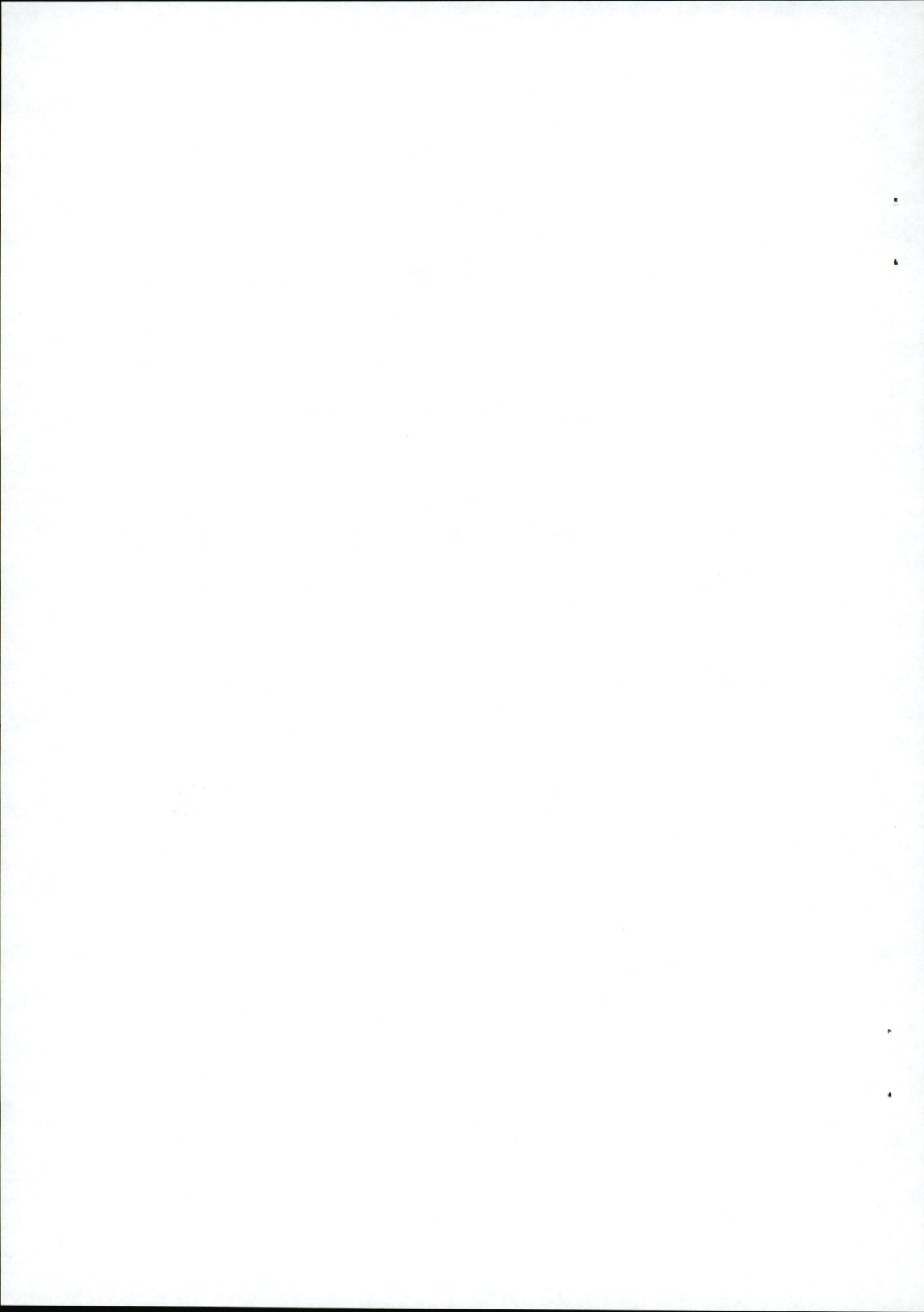
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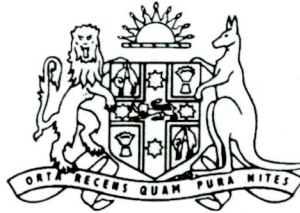
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New South Wales

# **Police Service Amendment Act 1995 No 77**

Act No 77, 1995

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An Act to amend the *Police Service Act 1990* to provide for the dismissal of police officers on the basis of information arising out of the Police Royal Commission, and for the resignation of police officers on the recommendation of that Commission. [Assented to 13 December 1995]

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

**1 Name of Act**

This Act is the *Police Service Amendment Act 1995*.

**2 Commencement**

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

**3 Amendment of Police Service Act 1990 No 47**

The *Police Service Act 1990* is amended by inserting after Division 1 of Part 9 the following Division:

**Division 1A Dismissal and resignation of police officers—Police Royal Commission**

**181A Definition and operation of Division**

(1) In this Division:

*Police Royal Commission* means the Royal Commission of inquiry issued by the Governor by letters patent under the Public Seal on 13 May 1994, appointing the Honourable James Roland Tomson Wood sole commissioner to make inquiry into, and report on, the operations of the New South Wales Police Service.

(2) This Division prevails to the extent of any inconsistency with any other provision of this Act.

**181B Dismissal of police officers—information arising out of Police Royal Commission**

(1) The Commissioner may, by order in writing, dismiss a police officer from the Police Service if the Commissioner has formed the opinion, based on information arising out of the Police Royal Commission, that the officer:

- 
- (a) has engaged in corrupt conduct (or any other conduct constituting an indictable offence), and
    - (b) is no longer a fit and proper person to hold a position in the Police Service.
  - (2) The dismissal takes effect when the order is made.
  - (3) Before deciding whether to dismiss a police officer under this section, the Commissioner must:
    - (a) give the officer a notice setting out the grounds on which the Commissioner has formed the opinion referred to in subsection (1), and
    - (b) give the officer an opportunity to make a written submission to the Commissioner within 21 days of receiving the notice, and
    - (c) take into consideration any such submission received within that period.
  - (4) Section 182 (Appeal to GREAT against disciplinary decision of Commissioner) does not apply to or in respect of the decision by the Commissioner to dismiss a police officer under this section.
  - (5) Without limiting the generality of section 218 (*Industrial Relations Act 1991* not affected), nothing in this section affects Part 8 (Unfair dismissals) of Chapter 3 of the *Industrial Relations Act 1991*.

#### **181C Acceptance of resignation of police officers in certain cases**

The Commissioner (or in the case of an executive officer within the meaning of section 32, the Police Board) is required to accept the resignation of a police officer from the Police Service if:

- (a) the officer tenders his or her resignation, and
- (b) the Police Royal Commission has recommended that the officer be allowed to resign.

[Minister's second reading speech made in—  
Legislative Assembly on 20 September 1995  
Legislative Council on 12 December 1995]

BY AUTHORITY