

Act 1994 No. 75

**ROYAL COMMISSION (POLICE SERVICE) AMENDMENT  
BILL 1994**

NEW SOUTH WALES



**EXPLANATORY NOTE**

**(This Explanatory Note relates to this Bill as introduced into Parliament)**

The object of this Bill is to amend the Royal Commission (Police Service) Act 1994:

- (a) to confer additional powers on the Police Royal Commission relating to the investigation of complaints against police; and
- (b) to confer additional powers on investigative and surveillance officers of the Commission; and
- (c) to provide that the Royal Commissioner is not under a duty to report possible corrupt conduct to the Independent Commission Against Corruption (“ICAC”) except in those cases agreed to between the Royal Commissioner and the ICAC Commissioner.

**Investigation of police complaints**

Under the Bill, the following powers are conferred on the Royal Commission with respect to the investigation of Complaints against police:

- (a) The Ombudsman will be required to forward copies of all relevant complaints about police conduct under Part 8A of the Police Service Act 1990 to the Royal Commission. Relevant complaints are complaints of a specified class or kind that the Ombudsman and the Royal Commissioner have agreed should be referred to the Royal Commission.
- (b) The Royal Commission may, on receipt of any such complaint, decide:
  - to take over the investigation of the complaint from the Commissioner of Police; or
  - not to take over the investigation of the complaint from the Commissioner of Police and to refer the complaint back to be dealt with in accordance with Part 8A of the Police Service Act 1990; or

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- to take over the investigation of part of the complaint from the Commissioner of Police and to refer the remainder of the complaint back to be dealt with in accordance with Part 8A of the Police Service Act 1990.
- (c) If the Royal Commission takes over the investigation of a complaint (or part of a complaint), all police investigations are terminated (including criminal investigations) but the Royal Commission may agree to continuing criminal investigations by police officers in a particular case. The Ombudsman is not precluded from conducting an investigation into the police complaint.

#### **Investigative and surveillance officers**

Under the Bill, the following powers are conferred on investigative and surveillance officers of the Commission:

- (a) Investigative officers who are police officers seconded from the Australian Federal Police or the Police Force of another State or Territory (or of another country prescribed by the regulations) will have all the powers of a New South Wales police officer.
- (b) Investigative and surveillance officers who are such seconded police officers will be entitled to possess or use semi-automatic pistols without the necessity for any licence or permit from the Commissioner of Police.
- (c) Any investigative or surveillance officers will be entitled to possess handcuffs and body armour vests without the necessity for any licence or permit from the Commissioner of Police.

#### **Reporting of possible corrupt conduct to ICAC**

Section 11 of the Independent Commission Against Corruption Act 1988 requires principal officers of public authorities to report possible corrupt conduct to the ICAC. Under the Bill, the Royal Commissioner is not under a duty to report under that section, except in those cases agreed to between the Royal Commissioner and the ICAC Commissioner.

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**Clause 1** specifies the short title of the proposed Act.

**Clause 2** provides that the proposed Act commences on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the Schedule of amendments to the Royal Commission (Police Service) Act 1994.

**Clause 4** is a formal provision giving effect to the Schedule of consequential amendments to the Police Service Act 1990.

**Schedule 1** contains the amendments to the Royal Commission (Police Service) Act 1994 described above.

**Schedule 1(1)** deals with the reporting of possible corrupt conduct.

**Schedule 1(2)** is a consequential amendment to ensure that the Ombudsman can disclose police complaints to the Royal Commission.

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**Schedule 1 (3)** (proposed Part 6A) deals with police complaints.

**Schedule 1 (3)** (proposed Part 6B) deals with the powers of investigative and surveillance officers.

**Schedule 2** contains consequential amendments to the Police Service Act 1990.

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