

# Police Amendment (Miscellaneous) Act 2006 No 94

[2006-94]



New South Wales

## Status Information

### Currency of version

Repealed version for 22 November 2006 to 1 June 2007 (accessed 26 November 2024 at 6:41)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Repeal**

The Act was repealed by sec 5 (1) of this Act with effect from 2.6.2007.

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Police Amendment (Miscellaneous) Act 2006 No 94



New South Wales

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# Police Amendment (Miscellaneous) Act 2006 No 94



New South Wales

An Act to amend the *Police Act 1990* to make further provision for the testing of police officers for the presence of alcohol, prohibited drugs and steroids and with respect to police complaints, to rename NSW Police as the NSW Police Force and to make miscellaneous amendments to the *Police Act 1990* and other Acts following a statutory review of the *Police Act 1990*; and for other purposes.

## 1 Name of Act

This Act is the *Police Amendment (Miscellaneous) Act 2006*.

## 2 Commencement

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

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

The *Police Act 1990* is amended as set out in Schedules 1 and 2.

## 4 Amendment of other Acts

The Acts specified in Schedule 3 are amended as set out in that Schedule.

## 5 Repeal of Act

- (1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.
- (2) The repeal of this Act does not, because of the operation of section 30 of the *Interpretation Act 1987*, affect any amendment made by this Act.

## Schedule 1 Amendments to *Police Act 1990* relating to testing for

## alcohol, drugs and steroids

(Section 3)

### [1] Section 211A Testing of police officers for alcohol and prohibited drugs

Insert “(or both)” after “urine or hair” in section 211A (1) (b).

### [2] Section 211A (2A)

Omit the subsection. Insert instead:

(2A) An authorised person must require any police officer directly involved in a mandatory testing incident to:

- (a) undergo a breath test, or submit to a breath analysis, for the purpose of testing for the presence of alcohol, and
- (b) provide a sample of their urine or hair (or both) for the purpose of testing for the presence of prohibited drugs,

in accordance with the directions of the authorised person and the regulations.

### [3] Section 211A (4A) and (4B)

Omit “incident” wherever occurring.

Insert instead “mandatory testing incident”.

### [4] Section 211A (4E), (4F) and (4G)

Insert after section 211A (4D):

(4E) A police officer of or above the rank of superintendent may direct any off duty police officer to accompany another police officer to any police premises to report for duty to provide a sample of the off duty police officer’s urine or hair (or both) for the purpose of testing for the presence of prohibited drugs. The selection of police officers for testing pursuant to this subsection is to be conducted on a targeted basis, as determined by the Commissioner.

(4F) A police officer directed to accompany another police officer pursuant to subsection (4E) must not refuse to do so without reasonable excuse.

(4G) For the purposes of subsection (4E), a police officer is taken to be **off duty** other than when a police officer is required to report for duty in accordance with a roster.

### [5] Section 211A (5) (i)

Insert after section 211A (5) (h):

- (i) the circumstances amounting to reasonable excuse for failing to accompany a police officer pursuant to subsection (4E).

**[6] Section 211A (7)**

Insert in alphabetical order:

***mandatory testing incident*** means an incident where a person is killed or seriously injured:

- (a) as a result of the discharge of a firearm by a police officer, or
- (b) as a result of the application of physical force by a police officer, or
- (c) while detained by a police officer, or while in police custody, or
- (d) in circumstances involving a police aircraft, motor vehicle or vessel.

***police premises*** means any police station, command, building, structure or any other area occupied from time to time by the NSW Police Force.

**[7] Section 211AA**

Insert after section 211A:

**211AA Testing of officers for steroids**

- (1) An authorised person may require any police officer who is on duty in accordance with a roster to provide a sample of the police officer's urine for the purpose of testing for the presence of steroids. The selection of police officers for testing pursuant to this subsection is to be conducted on a targeted basis, as determined by the Commissioner.
- (2) The regulations may make provision for or with respect to the following:
  - (a) the authorisation of persons:
    - (i) to administer tests for the purpose of detecting the presence of steroids, and
    - (ii) to operate equipment for that purpose,
  - (b) the conduct of testing,
  - (c) the taking of samples of urine,
  - (d) the devices used in carrying out tests,

- (e) the accreditation of persons conducting analyses for the presence of steroids,
  - (f) the procedure for the handling and analysis of samples of urine,
  - (g) offences relating to interference with test results or the testing procedure,
  - (h) the confidentiality of test results,
  - (i) requests for production of medical prescriptions for steroids and offences relating to failure to comply with such requests.
- (3) The annual report of the NSW Police Force prepared under the *Annual Reports (Departments) Act 1985* must include details of:
- (a) the number of tests for steroids conducted during the relevant year, and
  - (b) the number of those tests that indicated that a police officer had tested positive for the presence of steroids.
- (4) In this section:

**authorised person** means a person authorised in accordance with the regulations to conduct tests for the purposes of this section and the regulations.

**steroid** means anabolic and androgenic steroidal agents included in Schedule Four to the Poisons List under the *Poisons and Therapeutic Goods Act 1966*.

**[8] Section 211B Code of behaviour regarding the consumption of alcohol and the use of prohibited drugs or steroids**

Insert “and steroids” after “prohibited drugs” in section 211B (1).

**[9] Section 211B (2) (a) and (d)**

Insert “or steroids” after “prohibited drugs” wherever occurring.

**Schedule 2 Miscellaneous amendments to Police Act 1990**

(Section 3)

**[1] The whole Act (except Schedule 4)**

Omit “NSW Police” wherever occurring (except where elsewhere specifically referred to in this Schedule).

Insert instead “the NSW Police Force”.

**[2] The whole Act (except Schedule 4)**

Omit “NSW Police Senior Executive Service” wherever occurring (except where elsewhere

specifically referred to in this Schedule).

Insert instead “the NSW Police Force Senior Executive Service”.

**[3] Long title**

Omit the long title. Insert instead:

An Act to establish the NSW Police Force, to provide for the management of the NSW Police Force and for the employment of its members of staff; and for other purposes.

**[4] Section 3 Definitions**

Omit “is described in Schedule 2” wherever occurring from the definitions of **Assistant Commissioner** and **Deputy Commissioner** in section 3 (1).

Insert instead “is determined by the Minister under Division 2 of Part 5”.

**[5] Section 3 (1)**

Omit the definitions of **NSW Police** and **NSW Police Senior Executive Service**.

Insert instead in alphabetical order:

**NSW Police Force** means the NSW Police Force established by this Act.

**NSW Police Force Senior Executive Service** means the NSW Police Force Senior Executive Service established by this Act.

**[6] Section 3 (1)**

Insert in alphabetical order:

**police education course** means a course of education determined by the Commissioner to be a police education course for the purposes of one or more provisions of this Act or the regulations.

**student of policing** means a person (other than a police officer) who is undergoing a police education course.

**[7] Part 2, heading**

Omit “NSW Police”. Insert instead “NSW Police Force”.

**[8] Section 4 Establishment of NSW Police Force**

Omit “NSW Police”. Insert instead “The NSW Police Force”.

**[9] Sections 5 and 6 (2)**

Omit “NSW Police” wherever occurring.

Insert instead “The NSW Police Force”.

**[10] Section 6 Mission and functions of NSW Police Force**

Omit section 6 (1). Insert instead:

- (1) The mission of the NSW Police Force is to work with the community to reduce violence, crime and fear.

**[11] Part 3 Protective Security Group**

Omit the Part.

**[12] Part 5, heading**

Omit “**NSW Police**”. Insert instead “**NSW Police Force**”.

**[13] Section 32 Definitions**

Omit the definitions of *executive officer* and *executive position* from section 32 (1).

Insert instead:

*executive officer* means a person holding a position for the time being determined to be an executive position under section 33 (1).

*executive position* means a position referred to in section 33 (1).

**[14] Part 5, Division 2**

Omit the Division. Insert instead:

**Division 2 Composition of NSW Police Force Senior Executive Service**

**33 Composition of NSW Police Force Senior Executive Service**

- (1) The NSW Police Force Senior Executive Service comprises the persons holding positions for the time being determined by the Minister to be executive positions.
- (2) A list of the positions determined under subsection (1) is to be made publicly available on the website of the NSW Police Force.



### **34 Positions that may be determined to be executive positions**

- (1) The Minister may determine a position to be an executive position only if the position is a position in the NSW Police Force recommended by the Commissioner for inclusion in the NSW Police Force Senior Executive Service.
- (2) The position of either a police officer who is of or above the rank of superintendent or an administrative officer may be determined to be an executive position.
- (3) The position of Commissioner is not a position in the NSW Police Force Senior Executive Service.

### **[15] Section 39 Appointment to be made on merit**

Insert after section 39 (2):

- (2A) The Commissioner is, for the purpose of determining the merit of the persons eligible for appointment to a vacant executive position under this section, to have regard to:
  - (a) the nature of the duties of the position, and
  - (b) the abilities, qualifications, experience, standard of work performance and personal qualities of those persons that are relevant to the performance of those duties.

### **[16] Sections 57 and 58**

Omit the sections. Insert instead:

### **57 Change in status of positions**

- (1) If a position ceases to be an executive position by determination of the Minister under this Part:
  - (a) the position is not thereby abolished, and
  - (b) any person holding the position is to be taken to have been appointed to the position in accordance with the relevant provisions.
- (2) However, the determination by which a position is omitted may direct that the person holding the position is to cease to hold that position, but only if the person was not employed in the public sector (within the meaning of Division 6) immediately before last becoming an executive officer.
- (3) The person to whom any such direction relates ceases to hold the position

concerned and has the same rights and obligations as if the person had ceased to be an executive officer as referred to in section 51 (4).

- (4) A determination that omits or adds an executive position may contain other provisions of a savings or transitional nature consequent on a position becoming or ceasing to be an executive position or becoming a different kind of executive position.

## **58 Change in title of positions**

A position referred to in a determination of the Minister under this Part does not cease to be an executive position merely because of a change in the title of the position.

### **[17] Part 7, heading**

Omit “**NSW Police**”. Insert instead “**NSW Police Force**”.

### **[18] Part 8, heading**

Omit “**NSW Police**”. Insert instead “**NSW Police Force**”.

### **[19] Section 96 Attachment of wages or salary of members of NSW Police**

Omit the section.

### **[20] Section 98**

Insert after section 97A:

## **98 Recognition of commissioned officers**

- (1) The Governor may issue a document recognising the appointment of a police officer or other person to the position of a commissioned police officer.
- (2) Recognition by the Governor does not affect the manner of appointment of a person to a position of the rank of commissioned police officer under this Act or any other provision of this Act or the regulations relating to the employment of such a police officer.

### **[21] Section 121 Definitions**

Omit the definitions of **Category 1 complaint** (including the note to the definition) and **Category 2 complaint**.

### **[22] Section 121, definition of “notifiable complaint”**

Omit “Category 2”.

**[23] Section 125, note**

Omit the note. Insert instead:

**Note—**

Section 70 (5) of the *Police Integrity Commission Act 1996* provides as follows:

- (5) A complaint, to the extent that it is investigated by the Commission, cannot be dealt with as a complaint under Part 8A of the *Police Act 1990* and for that purpose is taken not to be a police complaint, except as directed by the Commission either generally or in any particular case or as directed by the regulations.

**[24] Section 129 Registration of complaints**

Omit “Category 1 complaint (or a specified class of Category 1 complaints)” from section 129 (2).

Insert instead “complaint or a specified class of complaints”.

**[25] Section 130 Complaints received by Commissioner**

Omit section 130 (2). Insert instead:

- (2) As soon as practicable after receiving a notifiable complaint, whether directly or as a result of it being forwarded as referred to in subsection (1), the Commissioner must cause a copy of the complaint to be sent to the Ombudsman.

**[26] Sections 131 and 132**

Omit the sections. Insert instead:

**131 Complaints received by Police Integrity Commission**

- (1) As soon as practicable after receiving a complaint, the Police Integrity Commission must refer the complaint to the Commissioner.
- (2) The Police Integrity Commission is not required to refer a complaint (or part of a complaint) to the Commissioner if of the opinion that it is not in the public interest to do so.
- (3) The Police Integrity Commission may, instead of referring a complaint to the Commissioner, forward a summary or appropriate details of the complaint, if of the opinion that there are reasonable grounds for not referring the complaint.
- (4) The Police Integrity Commission may cause a copy of a complaint (or part of a complaint) that it decides not to refer to the Commissioner to be sent to the Ombudsman.

### **132 Complaints received by Ombudsman**

- (1) As soon as practicable after receiving a complaint, the Ombudsman must refer the complaint to the Commissioner.
- (2) The Ombudsman is not required to refer a complaint (or part of a complaint) to the Commissioner if of the opinion that it is not in the public interest to do so.
- (3) The Ombudsman may, instead of referring a complaint to the Commissioner, forward a summary or appropriate details of the complaint, if of the opinion that there are reasonable grounds for not referring the complaint.
- (4) The Ombudsman may cause a copy of a complaint (or part of a complaint) that the Ombudsman decides not to refer to the Commissioner to be sent to the Police Integrity Commission.

#### **[27] Section 133 Complaints lodged at Local Courts**

Omit section 133 (4).

#### **[28] Section 138 Action on complaint not affected by failure to comply with Division**

Omit section 138 (2).

#### **[29] Section 149 Other police investigations not affected**

Omit section 149 (2). Insert instead:

- (2) Without affecting the generality of section 70 (5) of the *Police Integrity Commission Act 1996*, a matter that is the subject of a complaint being investigated by the Police Integrity Commission under that Act must not be investigated under this Part, or otherwise, by the Commissioner unless:
  - (a) it is referred to the Commissioner by the Commission to be dealt with under this Part, or
  - (b) such an investigation is authorised to be carried out by the regulations or by the Commission, either generally or in a particular case.

#### **[30] Section 168 Police Integrity Commission may take over Category 2 complaint**

Omit the section.

#### **[31] Section 172 Use of Federal and interstate police for investigations**

Omit “section 6 of the *Prohibited Weapons Act 1989*” from section 172 (2) (b) (ii).

Insert instead “section 7 of the *Weapons Prohibition Act 1998*”.

**[32] Part 9, heading**

Omit “**NSW Police**”. Insert instead “**NSW Police Force**”.

**[33] Part 10, heading**

Omit “**NSW Police**”. Insert instead “**NSW Police Force**”.

**[34] Section 200 Bribery or corruption**

Omit section 200 (3).

**[35] Section 202 Admission to NSW Police Force as police officer under false pretences**

Omit “NSW Police or” from section 202 (a).

Insert instead “the NSW Police Force or NSW Police or”.

**[36] Section 203 Wearing or possession of police uniforms by others**

Omit “*Traffic Act 1909*” from the definition of **motor vehicle** in section 203 (8).

Insert instead “*Road Transport (General) Act 2005*”.

**[37] Section 203, penalty provision**

Omit “imprisonment for 6 months”. Insert instead “imprisonment for 2 years”.

**[38] Section 204 Impersonation of police officers**

Omit the section.

**[39] Section 204A Use of “police” in operating name**

Omit “*Business Names Act 1962*” from section 204A (5).

Insert instead “*Business Names Act 2002*”.

**[40] Section 204B Consents for the purposes of section 204A**

Omit “*Business Names Act 1962*” from section 204B (5) (b) (ii).

Insert instead “*Business Names Act 2002*”.

**[41] Section 204B (5) (b)**

Omit “Director-General of the Department of Fair Trading”.

Insert instead “Commissioner for Fair Trading, Department of Commerce”.

**[42] Section 204B (5), note and (6)**

Omit “Director-General of Fair Trading” wherever occurring.

Insert instead “Commissioner for Fair Trading, Department of Commerce”.

**[43] Section 204B (5), paragraphs (a) and (b) of the note**

Omit “Director-General” wherever occurring.

Insert instead “Commissioner for Fair Trading”.

**[44] Section 216AA Special risk benefit where student of policing hurt while undergoing police education**

Omit the definitions of *police education course* and *student of policing* from section 216AA (6).

**[45] Section 219 Regulations**

Omit “NSW Police” from section 219 (2) (i).

Insert instead “the NSW Police Force or students of policing”.

**[46] Section 222**

Omit the section. Insert instead:

**222 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to the *Police Amendment (Miscellaneous) Act 2006*.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

**[47] Schedule 2 NSW Police senior executive positions**

Omit the Schedule.

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

Insert at the end of clause 2 (1):

*Police Amendment (Miscellaneous) Act 2006*

**[49] Schedule 4**

Insert at the end of the Schedule with appropriate Part and clause numbers:

## Part Provisions consequent on enactment of **Police Amendment (Miscellaneous) Act 2006**

### Definition

In this Part:

**amending Act** means the *Police Amendment (Miscellaneous) Act 2006*.

### Construction of references to NSW Police and NSW Police Senior Executive Service

- (1) Subject to the regulations, in any other Act or instrument:
  - (a) a reference to NSW Police (however expressed) is to be construed as a reference to the NSW Police Force, and
  - (b) a reference to a member of NSW Police (however expressed) is to be construed as a reference to a member of the NSW Police Force, and
  - (c) a reference to NSW Police Senior Executive Service (however expressed) is to be construed as a reference to the NSW Police Force Senior Executive Service.
- (2) Subject to the regulations, a reference in a provision of any other Act or instrument that commenced or was inserted before the commencement of this Act to a member of the Police Force is to be construed as a reference to a police officer.

### Existing executive positions

- (1) The positions listed in Schedule 2 to this Act, as in force immediately before the repeal of that Schedule by the amending Act, are taken to be positions determined by the Minister under Division 2 of Part 5 and this Act applies accordingly.
- (2) Any such position or positions may be the subject of a determination by the Minister under Division 2 of Part 5 amending or omitting them.

## Schedule 3 Amendment of other Acts

(Section 4)

### 3.1 Australian Crime Commission (New South Wales) Act 2003 No 13

#### Section 19 Administrative arrangements with Commonwealth

Omit “member of NSW Police”.

Insert instead “member of the NSW Police Force”.

### 3.2 Bail Act 1978 No 161

#### Section 25A Stay of decision to grant bail if review sought

Omit “member of NSW Police” from the definition of *authorised officer* in section 25A (6).

Insert instead “member of the NSW Police Force”.

### 3.3 Child Protection (Offenders Prohibition Orders) Act 2004 No 46

#### Sections 17 and 18 (3) (c)

Omit “member of NSW Police” wherever occurring.

Insert instead “member of the NSW Police Force”.

### 3.4 Child Protection (Offenders Registration) Act 2000 No 42

#### [1] Section 12E Power to take fingerprints

Omit “NSW Police” from section 12E (b).

Insert instead “the NSW Police Force”.

#### [2] Section 21A Certificate evidence

Omit “member of NSW Police” from section 21A (1).

Insert instead “member of the NSW Police Force”.

### 3.5 Commission for Children and Young People Act 1998 No 146

#### Sections 45C (2) (c) and 45F

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.



## 3.6 Conveyancers Licensing Act 2003 No 3

### Section 161 Disclosure of information

Omit “member of NSW Police” from paragraph (a) of the definition of **law enforcement officer** in section 161 (5).

Insert instead “member of the NSW Police Force”.

## 3.7 Crimes Act 1900 No 40

### [1] Section 33B Use or possession of weapon to resist arrest etc

Omit “member of the police force from investigating any act or circumstance which reasonably calls for investigation by the member shall be” from section 33B (1).

Insert instead “police officer from investigating any act or circumstance which reasonably calls for investigation by the officer is”.

### [2] Section 546C Resisting etc police

Omit “member of the police force”. Insert instead “police officer”.

### [3] Section 546D

Insert after section 546C:

#### **546D Impersonation of police officers**

(1) **General offence** A person who impersonates a police officer is guilty of an offence.

Maximum penalty: Imprisonment for 2 years, or a fine of 100 penalty units, or both.

(2) **Aggravated offence** A person who, with intent to deceive:

(a) impersonates a police officer, and

(b) purports to exercise a power or function as a police officer,

is guilty of an offence.

Maximum penalty: Imprisonment for 7 years.

(3) An offence against subsection (1) is a summary offence.

(4) In this section:

**impersonation** does not include conduct engaged in solely for satirical purposes.

**[4] Section 547B Public mischief**

Omit “member of the police force” wherever occurring.

Insert instead “police officer”.

**3.8 Criminal Assets Recovery Act 1990 No 23**

**Section 59A Ministerial arrangements for things seized in connection with extra-territorial offences**

Omit “NSW Police” from paragraph (a) of the definition of **appropriate authority** in section 59A (3).

Insert instead “the NSW Police Force”.

**3.9 Criminal Procedure Act 1986 No 209**

**Schedule 1 Indictable offences triable summarily**

Insert after clause 16A of Table 1:

**16B Impersonating police officers**

An offence under section 546D (2) of the *Crimes Act 1900*.

**3.10 Drug Misuse and Trafficking Act 1985 No 226**

**Sections 39PB and 39RA**

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

**3.11 Fair Trading Act 1987 No 68**

**Section 9A Exchange of information**

Omit “NSW Police” from paragraph (a) of the definition of **law enforcement agency** in section 9A (7).

Insert instead “the NSW Police Force”.

**3.12 Firearms Act 1996 No 46**

**Section 78 Compensation for surrendering prohibited pistols and post-1946 pistols**

Omit “member of NSW Police” from section 78 (2) (b), (3) (b) and (4) (c) wherever occurring.

Insert instead “member of the NSW Police Force”.

### **3.13 First State Superannuation Act 1992 No 100**

#### **Section 6 Employers to whom Act applies**

Omit “NSW Police” from section 6 (2) wherever occurring.

Insert instead “the NSW Police Force”.

### **3.14 Freedom of Information Act 1989 No 5**

#### **Schedule 1 Exempt documents**

Omit “NSW Police” from clause 4 (3) (b) and (3A) wherever occurring.

Insert instead “the NSW Police Force”.

### **3.15 Health Records and Information Privacy Act 2002 No 71**

#### **Section 4 Definitions**

Omit “NSW Police” from paragraph (c) of the definition of **public sector official** in section 4 (1).

Insert instead “the NSW Police Force”.

### **3.16 Health Services Act 1997 No 154**

#### **[1] Section 115 (2), note**

Omit “NSW Police”. Insert instead “the NSW Police Force”.

#### **[2] Section 121P Incumbent officers’ accrued leave**

Omit “member of NSW Police” from section 121P (5) (b).

Insert instead “member of the NSW Police Force”.

### **3.17 Industrial Relations Act 1996 No 17**

#### **Dictionary**

Omit “NSW Police” from the definition of **public sector employee**.

Insert instead “the NSW Police Force”.

### 3.18 Interpretation Act 1987 No 15

#### Section 21 Meanings of commonly used words and expressions

Omit the definitions of **NSW Police**, **Police Force** and **police officer** from section 21 (1).

Insert instead in alphabetical order:

**NSW Police Force** means the NSW Police Force established by the *Police Act 1990*.

**police officer** means a member of the NSW Police Force who is a police officer within the meaning of the *Police Act 1990*.

### 3.19 Law Enforcement and National Security (Assumed Identities) Act 1998 No 154

#### The whole Act

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

### 3.20 Law Enforcement (Controlled Operations) Act 1997 No 136

#### The whole Act

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

### 3.21 Law Enforcement (Powers and Responsibilities) Act 2002 No 103

#### [1] The whole Act (except Schedule 4)

Omit “NSW Police” wherever occurring (except where elsewhere specifically referred to in this Subschedule).

Insert instead “the NSW Police Force”.

#### [2] Section 3 Interpretation

Omit the definition of **NSW Police** from section 3 (1).

Insert instead:

**NSW Police Force** means the NSW Police Force established by the *Police Act 1990*.

### 3.22 Pawnbrokers and Second-hand Dealers Act 1996 No 13

#### Section 44 Disclosure or use of personal information by licensees and others

Omit “member of NSW Police” from paragraph (a) of the definition of **law enforcement officer** in section 44 (4).

Insert instead “member of the NSW Police Force”.

### 3.23 Photo Card Act 2005 No 20

#### Section 19 Release of photographs prohibited

Omit “NSW Police” from section 19 (1) (a).

Insert instead “the NSW Police Force”.

### 3.24 Police Association Employees (Superannuation) Act 1969 No 33

#### Section 2 Definitions

Omit “NSW Police” from the definition of **member of the police force** in section 2 (1).

Insert instead “the NSW Police Force”.

### 3.25 Police Integrity Commission Act 1996 No 28

#### [1] The whole Act

Omit “NSW Police” wherever occurring (except where elsewhere specifically referred to in this Subschedule).

Insert instead “the NSW Police Force”.

#### [2] Section 4 Definitions

Omit the definitions of **Category 1 complaint** and **serious police misconduct** from section 4 (1).

#### [3] Section 13 Principal functions

Omit section 13 (1) (a)-(c). Insert instead:

- (a) to prevent police misconduct,
- (b) to detect or investigate, or manage or oversee other agencies in the detection or investigation of, police misconduct,

**[4] Section 14 (e) and (f)**

Omit section 14 (e) and (f).

**[5] Sections 13 (3) and 30 (2) (b)**

Omit “serious” wherever occurring.

**[6] Section 67 Definition of Category 1 complaint**

Omit the section.

**[7] Section 68 Application of Part**

Omit section 68 (3).

**[8] Section 69 Copies of Category 1 complaints to be forwarded to Commission**

Omit the section.

**[9] Sections 70 and 71**

Omit sections 70–73. Insert instead:

**70 Powers of Commission in respect of police complaints**

- (1) The Commission may decide in relation to a police complaint (however made):
  - (a) to investigate or take over the investigation of the complaint, or
  - (b) to investigate or take over the investigation of part of the complaint, or
  - (c) to refer the complaint or part of the complaint to the Ombudsman or to the Commissioner of Police to be dealt with in accordance with Part 8A of the *Police Act 1990*.
- (2) The Commission may review any decision made by it under this section.
- (3) The Commission may investigate any matter relating to a police complaint even though it refers the complaint or part of the complaint to be dealt with in accordance with Part 8A of the *Police Act 1990*.
- (4) The Commission may make a decision under this section before the commencement of an investigation by the Commissioner of Police under Part 8A of the *Police Act 1990*, during the progress of any such investigation or after any such investigation.
- (5) A complaint, to the extent that it is investigated by the Commission, cannot be dealt with as a complaint under Part 8A of the *Police Act 1990* and for that purpose is taken not to be a police complaint, except as directed by the

Commission either generally or in any particular case or as directed by the regulations.

### **71 Commissioner of Police to be notified of take over or referral of investigation**

- (1) The Commission must notify the Commissioner of Police of any decision to investigate or take over the investigation of a police complaint or part of a police complaint or to refer a complaint or part of a complaint to be dealt with in accordance with Part 8A of the *Police Act 1990*.
- (2) The Commission must notify the Commissioner of Police of any change to a decision referred to in subsection (1).
- (3) If the Commission makes a decision to investigate or take over the investigation of part of a police complaint, or to refer to the Commissioner of Police part of a police complaint, the Commission is to revise the complaint by removing the reference to the part of the conduct concerned that it has decided to investigate itself. The Commission is to provide a copy of the revised complaint to the Commissioner of Police.
- (4) The revised complaint is to be dealt with in accordance with Part 8A of the *Police Act 1990*.
- (5) The Commission is not the complainant for a revised complaint and the original complainant continues to be the complainant for the purposes of the revised complaint.

### **[10] Section 74 Termination of police investigations**

Omit “If the Commissioner of Police is directed under this Part not to investigate a Category 1 complaint (or any part of a Category 1 complaint)” from section 74 (1).

Insert instead “If the Commissioner of Police is notified under this Part of a decision by the Commission to investigate or take over the investigation of a police complaint or any part of a police complaint”.

### **[11] Section 99 Annual reports**

Omit “NSW Police Senior Executive Service” from section 99 (2) (c).

Insert instead “the NSW Police Force Senior Executive Service”.

### **[12] Section 128 Notification of police complaints by ICAC to Ombudsman or PIC**

Omit “serious police misconduct” wherever occurring in section 128 (2) and (3).

Insert instead “police misconduct of a kind that should be referred to PIC”.

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

Insert at the end of clause 1 (1):

*Police Amendment (Miscellaneous) Act 2006* (but only to the extent that it amends this Act)

**[14] Schedule 3**

Insert at the end of the Schedule with appropriate Part and clause numbering:

**Part Provisions consequent on enactment of *Police Amendment (Miscellaneous) Act 2006***

**Complaints**

Sections 70 and 71, as substituted by the *Police Amendment (Miscellaneous) Act 2006*, and section 74, as amended by that Act, apply to complaints made before the commencement of those sections and that amendment.

**3.26 Police Regulation (Superannuation) Act 1906 No 28**

**The whole Act**

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

**3.27 Prevention of Cruelty to Animals Act 1979 No 200**

**Section 24J Powers of inspectors in relation to care of animals**

Omit “NSW Police” from section 24J (4) wherever occurring.

Insert instead “the NSW Police Force”.

**3.28 Privacy and Personal Information Protection Act 1998 No 133**

**[1] Section 3 Definitions**

Omit “NSW Police” from paragraph (a) of the definition of **law enforcement agency** in section 3 (1).

Insert instead “the NSW Police Force”.

**[2] Section 3 (1), definition of “public sector agency”**

Omit “NSW Police” from paragraph (e).



Insert instead “the NSW Police Force”.

**[3] Section 3 (1), definition of “public sector official”**

Omit “NSW Police” from paragraph (c).

Insert instead “the NSW Police Force”.

**[4] Section 27 Specific exemptions (ICAC, ICAC Inspector and Inspector’s staff, NSW Police Force, PIC, Inspector of PIC and Inspector’s staff and NSW Crime Commission)**

Omit “NSW Police” from section 27 (1) and (2) wherever occurring.

Insert instead “the NSW Police Force”.

### **3.29 Public Finance and Audit Act 1983 No 152**

**[1] The whole Act (except Schedule 3)**

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

**[2] Schedule 3 Departments**

Omit the matter relating to NSW Police.

Insert instead in Columns 1 and 2, respectively:

NSW Police Force

Commissioner of Police

### **3.30 Public Sector Employment and Management Act 2002 No 43**

**[1] Section 3 Definitions**

Omit “NSW Police” from paragraph (c) of the definition of **public sector service** in section 3 (1).

Insert instead “the NSW Police Force”.

**[2] Section 4A, note and section 78 (9) (a)**

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

**[3] Section 114 Definitions**

Omit “member of NSW Police” from section 114 (3) (a) (ii).

Insert instead “member of the NSW Police Force”.

### **3.31 Road Transport (General) Act 2005 No 11**

#### **Section 255 Register of written off and wrecked motor vehicles**

Omit “NSW Police” from section 255 (6) (a).

Insert instead “the NSW Police Force”.

### **3.32 Security Industry Act 1997 No 157**

#### **[1] Sections 6 (2) (a) and 18 (7) (a)**

Omit “member of NSW Police” wherever occurring.

Insert instead “member of the NSW Police Force”.

#### **[2] Section 45A Penalty notices**

Omit “member of the NSW Police” from section 45A (9) (a).

Insert instead “member of the NSW Police Force”.

### **3.33 State Emergency and Rescue Management Act 1989 No 165**

#### **[1] Section 3 Definitions**

Omit “NSW Police” from the definition of ***emergency services organisation*** in section 3 (1).

Insert instead “the NSW Police Force”.

#### **[2] Section 3 (1), definition of “government agency”**

Omit “NSW Police” from paragraph (c).

Insert instead “the NSW Police Force”.

#### **[3] Sections 18 (1B) and 51 (2) and (3)**

Omit “member of NSW Police” wherever occurring.

Insert instead “member of the NSW Police Force”.

#### **[4] Section 26 NSW Police Force to provide executive support for District Emergency Management Committee and Operations Controller**

Omit “NSW Police” from section 26 (1).

Insert instead “The NSW Police Force”.

**[5] Section 43 Composition of Board**

Omit “member of NSW Police Senior Executive Service” from section 43 (1) (c).

Insert instead “member of the NSW Police Force Senior Executive Service”.

**[6] Section 53 Offence to operate rescue unit or rescue vehicle without accreditation**

Omit “NSW Police” from section 53 (2) (a).

Insert instead “the NSW Police Force”.

**[7] Section 63B Offences relating to emergency services organisations**

Omit “NSW Police” from paragraph (a) of the definition of **emergency services organisation insignia** in section 63B (4).

Insert instead “the NSW Police Force”.

**[8] Section 63B (4), definition of “emergency services organisation officer”**

Omit “NSW Police”. Insert instead “the NSW Police Force”.

### **3.34 State Emergency Service Act 1989 No 164**

**[1] Section 8 Functions of Service**

Omit “members of NSW Police” from section 8 (1) (g).

Insert instead “members of the NSW Police Force”.

**[2] Section 21 Duty to recognise authority of Director-General and emergency officers**

Omit “member of NSW Police” from section 21 (1).

Insert instead “member of the NSW Police Force”.

### **3.35 Terrorism (Police Powers) Act 2002 No 115**

**The whole Act**

Omit “NSW Police” wherever occurring.

Insert instead “the NSW Police Force”.

### **3.36 Valuers Act 2003 No 4**

**Section 38 Disclosure of information**

Omit “member of NSW Police” from paragraph (a) of the definition of **law enforcement officer** in section 38 (5).

Insert instead “member of the NSW Police Force”.

### **3.37 Workplace Surveillance Act 2005 No 47**

#### **Section 3 Definitions**

Omit “NSW Police” from paragraph (a) of the definition of ***law enforcement agency***.

Insert instead “the NSW Police Force”.