



Speech by

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MEMBER FOR MOUNT OMMANEY

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POLICE SERVICE ADMINISTRATION AND MISCONDUCT TRIBUNALS AMENDMENT BILL

Mrs ATTWOOD (Mount Ommamey—ALP) (10.06 p.m.): It gives me pleasure to speak in support of the Police Service Administration and Misconduct Tribunals Amendment Bill 2001, which will preserve the review and appeal provisions of the Police Service Administration Act 1990 and the Misconduct Tribunals Act 1997 respectively from the jurisdiction of the Industrial Relations Act 1999 after 1 July 2001.

The amendments are necessary for the following reasons. Section 686(1)(c) of the IR Act currently exempts certain matters from the jurisdiction of the Industrial Commission or the Industrial Court where a process or procedure of another act already provides for such matters. The circumstances and grounds for reviews and appeals under the Police Service Administration Act 1990 and the Misconduct Tribunals Act 1997 respectively could amount to industrial matters as defined by the IR Act. On this basis, the Police Service Administration Act 1990 review process under part 9, review of decisions, of that act for police officers is currently exempt from the IR Act.

The two avenues of appeal to and from a misconduct tribunal under the Misconduct Tribunals Act 1997 for prescribed persons, including police officers, are similarly exempted. However, this IR Act exemption will expire on 1 July 2001. This time frame provides for any exemptions to other acts to be achieved via specific exclusions of the relevant effect of the IR Act. Such exclusions are in accordance with section 686(1)(b)(i) of the IR Act, which provides that the IR Act binds the state, other than in relation to a matter about which another act excludes the jurisdiction of the Industrial Court or the Industrial Commission about the matter.

Part 9 of the Police Service Administration Act 1990 is an integral mechanism in the management of police officers in Queensland. It sets out a review process for police officers who are aggrieved by decisions about the selection of an officer for appointment to a police officer position, whether on promotion or transfer, if certain selection procedures mentioned in the act were or were not required to be complied with; action taken against the officer for a breach of discipline; suspension or standing down of the officer; or any other matter prescribed by regulation as open to review under this part.

Section 9.4(2) of the Police Service Administration Act 1990 provides that, where appropriate, a commissioner for Police Service reviews, a review commissioner, should have regard to the following principles: a review is an administrative proceeding of a non-adversarial nature; proceedings on a review should be informal and simple; and legal representation is not permitted to any person concerned in a review.

The Police Service Administration Act 1990 and the Police Service (Review of Decisions) Regulations 1990 provide that, upon conclusion of a review, a review commissioner may take certain action, including to affirm the decision under review or make certain recommendations to the Police Commissioner, for example to vary or set aside the original decision.

The Police Service Administration Act 1990 further provides that the Police Commissioner, upon consideration of the matter reviewed and having regard to the recommendations made by a review commissioner, is to take such action as appears to be just and fair. The Police Service (Review of Decisions) Regulations 1990 provide that where a review commissioner makes a recommendation, the Police Commissioner, as soon as practicable, is to inform the review commissioner and parties to the

review of the final decision and, if the Commissioner of Police has not complied with the recommendation of the review commissioner, that member must give a brief summary of the reasons for the decision.

The Misconduct Tribunals Act 1997 provides for appeal mechanisms in relation to appeals against decisions of a misconduct tribunal exercising original jurisdiction to hear and decide charges of a disciplinary nature of official misconduct made against a prescribed person, including a police officer. Prescribed persons and others—for example, the Criminal Justice Commission—and the principal officer for the relevant unit of public administration in which the prescribed person is or was employed, may appeal the decision to the Supreme Court—and to the District Court upon delegation—on certain grounds. The act also provides for appeals to a misconduct tribunal exercising appellate jurisdiction.

A tribunal has jurisdiction to hear and decide an appeal against a reviewable decision in relation to: a disciplinary charge of misconduct made against a prescribed person, including a police officer, other than a decision made by a court or a misconduct tribunal; or a finding mentioned in section 7.4(2A)(b) of the Police Service Administration Act 1990 that a prescribed person or police officer is guilty of misconduct. A misconduct tribunal's appellate jurisdiction allows for prescribed persons, including police officers, and the Criminal Justice Commission to appeal to a misconduct tribunal. A decision of a misconduct tribunal exercising appellate jurisdiction is final and conclusive and is binding on and must be given effect by all persons concerned, including the Police Commissioner.

In summary, the respective review and appeal provisions under the Police Service Administration Act 1990 and the Misconduct Tribunals Act 1997 require preservation because they have been developed to most effectively address grievances of police officers and other parties in relation to these matters with a minimum of cost and delay. I commend the bill to the House.
