

1981

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE HOUSE OF REPRESENTATIVES

AUSTRALIAN FEDERAL POLICE AMENDMENT BILL 1981

EXPLANATORY MEMORANDUM

(Circulated by authority of the  
Minister for Administrative Services  
The Honourable Kevin Newman, M.P.)

### OUTLINE

The Bill inserts in the Australian Federal Police Act 1979 a number of provisions which complement the procedures to be established under the Complaints (Australian Federal Police) Bill 1981.

## NOTES ON CLAUSES

### Clause 1 - Short Title

This is formal.

### Clause 2 - Commencement

This clause provides that the Act shall come into operation on the day on which the Complaints (Australian Federal Police) Act 1981 comes into operation.

### Clause 3 - Regulations under Australian Federal Police Act

Sub-clause (1) replaces paragraph 40(f) of the Australian Federal Police Act 1979 which currently provides that the regulations under that Act may make provision for and in relation to -

"(f) disciplinary offences, penalties for such offences (including dismissal) and appeals in respect of matters arising in connection with such offences, including the establishment of a Disciplinary Board to hear and determine matters under regulations made by virtue of this paragraph, with powers of summoning witnesses, requiring the production of books, documents and other things and receiving evidence on oath". The matters currently dealt with in the Australian Federal Police (Discipline) Regulations made under that part of paragraph 40(f) underlined above are dealt with under the provisions of the Complaints (Australian Federal Police) Bill 1981.

Sub-clause (2) provides that the regulations in force under the Australian Federal Police Act 1979 immediately before the commencement of this Bill continue in force after that date except in so far as they are inconsistent with the Australian Federal Police Act as amended by this Bill but any such

regulations may be amended or repealed by regulations under that Act as amended by this Bill.

Clause 4

This clause inserts new sections 64A and 64B after section 64 of the Australian Federal Police Act.

Section 64A: Members of certain ranks to wear identification numbers

This section provides that a member to whom it applies must at all times when he is wearing his police uniform wear his identification number on or attached to the front of his uniform: Penalty: \$500

Sub-section (2) provides that it is a defence to a prosecution if the defendant proves that his identification number was not worn on or attached to the front of his uniform because of the act of another person (not being a member) done without the defendants consent or because of an unintentional omission on the part of the defendant.

Sub-section (3) requires the Commissioner to take necessary steps to enable members to comply with sub-section (1).

Section 64B: Liability for wrongful acts of members

This clause provides that the Commonwealth is liable in respect of a tort committed by a member in the performance or purported performance of his duty as a member in the same manner as any other employer is liable in respect of a tort committed by his employee and that the Commonwealth is to be treated for all purposes as a joint tortfeasor with the member.

Sub-section (2) provides that, where the Commonwealth

is claiming damages in respect of a tort, an act or omission of a member in the performance or purported performance of his duty may be relied on as constituting contributory negligence by the Commonwealth.

Sub-section (3) ensures that the Commonwealth is not liable to pay punitive damages.

Sub-section (4) ensures that the Commonwealth may, whether or not it is party to proceedings, pay the whole or part of any damages (other than punitive damages) and any costs that a member of the Australian Federal Police has been ordered to pay by the Court and may pay to the member any costs incurred by him that are not recovered from the plaintiff. The Commonwealth may also pay the whole or part of any amount which is payable under the terms of a settlement entered into by a member even where the Commonwealth is not a party to the settlement.

Sub-clause (5) contains interpretation provisions.