Date Introduced: 17 April 1985
House: House of Representatives
Presented by: Hon. M.J. Young, M.P., Special Minister for State

Short Digest of Bill

Purpose

To amend the procedure and methods of investigations and hearings relating to complaints against officers of the Australian Federal Police.

Background

The Federal Police Disciplinary Tribunal (the Tribunal) was established by the Complaints (Australian Federal Police) Act 1981 (the Principal Act) following the creation of the Australian Federal Police (AFP) in 1979. Prior to the creation of the Tribunal, disciplinary matters were heard by the Disciplinary Board.

The Tribunal is based on recommendations of the Law Reform Commission contained in its Report No.1 on Complaints Against Police, presented to Parliament on 7 August 1975, and a Supplementary Report, presented on 14 April 1978. In its most simplified form, the procedure for a complaint concerning a member of the AFP is: the complaint is referred to the Investigation Division, which prepares a report on the matter (section 6 of the Principal Act). The report is forwarded to the Commissioner who may, after consideration of the report and other material, proceed to charge the officer concerned with a breach of regulations, or take no action (section 11 of the Principal Act). If the decision is to charge the officer, the matter is to be heard by the Tribunal. If at the hearing the Tribunal is composed of the President or a Deputy President, the Tribunal may impose a penalty as well as determining guilt or innocence. If the Tribunal is not so composed, it may only rule on guilt, the question of penalty being remitted to the Commissioner (section 67 of the Principal Act). If the penalty is imposed by the Commissioner, the officer may appeal to the Tribunal, composed of the President or a Deputy President, on the grounds that the penalty is
excessive or contrary to law (section 68 of the Principal Act).

The proposed amendments to the Principal Act contained in this Bill, result from consultations between the Australian Federal Police Association and the Special Minister for State and the Attorney-General, and from recommendations contained in the 1982/83 Annual Report of the Federal Police Disciplinary Tribunal.

Main Provisions

The protection afforded to officers under investigation by the Investigation Division is to be increased by requiring that a direction to furnish information be expressly identified as such, contain details of the complaint and, where practicable, be in writing (see clause 4 of the Bill). The amendments result from the consultations with the Federal Police Association referred to above.

The following recommendations implement the recommendations contained in the 1982/83 Annual Report of the Tribunal.

Section 67 of the Principal Act is amended to provide that after a finding of guilt but before a penalty is imposed, the Tribunal is to rehear both the officer and the Commissioner. At present, the Tribunal is only required to hear from the Commissioner before imposing a penalty (see clause 10 of the Bill).

Further amendments allow the Tribunal to extend the time allowed to appeal (clause 11); permit the Commissioner as well as the officer to put submissions at section 69 hearings (clause 12) and allow for summonses to be issued by the Registrar or Deputy Registrar, rather than members of the Tribunal (clause 13).

For further information, if required, contact:

30 April 1985

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References