



Police Complaints Authority (Commission of Inquiry into Police Conduct) Amendment Act 2004

Public Act 2004 No 37
Date of assent 19 May 2004
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Police Complaints Authority (Commission of Inquiry into Police Conduct) Amendment Act 2004.
- (2) In this Act, the Police Complaints Authority Act 1988 is called “the principal Act”.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1 Preliminary provisions

3 Purpose

The purpose of this Act is to amend certain provisions of the Police Complaints Authority Act 1988 to ensure that they do

not prevent the Commission of Inquiry into Police Conduct from gaining access to information needed in order to carry out its functions.

4 Interpretation

For the purposes of this Act, but not the principal Act,—

Commission—

- (a) means the Commission of Inquiry into Police Conduct, the terms of reference for which are set out in the Supplement to the *Gazette* dated 20 February 2004; and
- (b) includes any person authorised by the members of the Commission to exercise any power under section 4C of the Commissions of Inquiry Act 1908

instruction communication means any request by, or instruction or direction from, the Authority to the police to investigate a complaint, and any subsequent amendment or addition that is made to that request, instruction, or direction, made in accordance with sections 17(1)(b) or (c), 18(2), or 19 of the principal Act, but does not include any other part of the communication that was made

member of the police includes a former member of the police (other than a person who is currently an officer or employee of the Authority)

restricted matter means—

- (a) any document, information, or communication produced by or, as the case requires, made by a person holding office as the Authority or the Deputy Authority, or as an officer or employee of the Authority, other than an instruction communication; and
- (b) any communication by a person made to the Authority, or forwarded or notified to the Authority,—
 - (i) in which that person made a complaint or raised a concern about the conduct of the police, or any member of the police; and
 - (ii) in respect of which that person has not given consent to the Authority for it to be disclosed to the Commission.

5 Expiry

This Act expires at the close of the day that is 1 year after the date on which the Commission finally reports to the Governor-General.

Part 2
Disclosure to Commission of Inquiry into
Police Conduct

6 Authority and staff to maintain secrecy

Section 32 of the principal Act must be read as if, after subsection (2), the following subsections were inserted:

“(2A) Subsection (1) does not prevent—

“(a) the Authority, or any person holding any office or appointment under the Authority, from disclosing any matter (other than a restricted matter) in order to comply with any requirement, order, or direction of the Commission under section 4C of the Commissions of Inquiry Act 1908:

“(b) any member of the police who was involved in investigating a complaint or other matter that was received by or notified to or otherwise came to the attention of the Authority from disclosing any matter (other than a restricted matter)—

“(i) in order to comply with any requirement, order, or direction of the Commission under section 4C of the Commissions of Inquiry Act 1908 or a summons issued by the Commission under section 4D of that Act:

“(ii) in evidence before the Commission.

“(2B) Before the Authority discloses to the Commission any matter which the Authority could not disclose but for subsection (2A), the Authority must obtain from the Commission—

“(a) an acknowledgement that the Commission is aware of the confidentiality that persons who have informed the Authority of the matter were entitled to expect under this Act before it was amended by the insertion of subsection (2A):

“(b) an undertaking that, in exercising its power and discretions, the Commission will take all steps necessary or

desirable to protect that confidentiality, so far as this may be achieved without materially prejudicing the Commission's ability to ascertain and report the truth, which steps may include—

- “(i) restricting or prohibiting publication: or
- “(ii) excluding persons from hearings.

“(2C) Steps or restrictions referred to in subsection (2B)(b) may be waived with the informed consent of any person to whom this Act extends the benefit of confidentiality in respect of any matter but for subsection (2A).”

7 Proceedings privileged

(1) Section 33 of the principal Act must be read as if, after subsection (2), the following subsection were inserted:

“(2A) Nothing in subsection (1)(b) applies to any member of the police who is called to give evidence in proceedings before the Commission.”

(2) Section 33 of the principal Act must be read as if, after subsection (3), the following subsection were inserted:

“(3A) Nothing in subsection (3) prevents—

“(a) any matter (other than a restricted matter) from being disclosed to the Commission; or

“(b) evidence about any matter (other than a restricted matter) being given in proceedings before the Commission.”

8 Certain privileges and protections unaffected by this Act

Nothing in this Act affects—

- (a) the privileges granted under section 25(1) of the principal Act; or
- (b) the protections granted under section 25(3) and (4) of the principal Act; or
- (c) the protections granted under section 33(1)(a) of the principal Act; or
- (d) subject to section 7(1), the protections granted under section 33(1)(b) of the principal Act.

**Police Complaints Authority (Commission
of Inquiry into Police Conduct)
Amendment Act 2004**

2004 No 37

Legislative history

30 March 2004	Introduction, first reading, and referral to Law and Order Committee (Bill 114-1)
3 May 2004	Reported from Law and Order Committee (Bill 114-2)
11 May 2004	Second reading
12 May 2004	Committee of the whole House (Bill 114-3)
13 May 2004	Third reading
19 May 2004	Royal assent

This Act is administered in the Ministry of Justice.
