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BILLS DIGEST

Digest No. 1638

Policing Bill 2007 (2008 No 195-2)

Date of Introduction:	18 December 2007
Portfolio:	Police
Select Committee:	Law and Order
Date report presented:	09 June 2008
Published: 19 August 2008 Prepared by John McSoriley BA LL.B, Barrister Legislative Analyst P: (04) 471-9626 (Ext. 9626) F: (04) 471-1250	Caution: This Digest was prepared to assist consideration of the Bill by members of Parliament. It has no official status. Although every effort has been made to ensure accuracy, it should not be taken as a complete or authoritative guide to the Bill. Other sources should be consulted to determine the subsequent official status of the Bill.

Purpose

The main aim of the Bill is to repeal and replace the Police Act 1958 to update the law in relation to organisation of the Police and the powers of members of the Police.

The Bill as introduced is described in [Bills Digest 1601](#)

Main Changes to the Bill

The Select Committee has recommended a large number of drafting and technical amendments which are well described in its report. This Bills Digest describes a legal issue and a constitutional issue arising from the Select Committee's recommendations.

Roles of others acknowledged

The Select Committee has recommended that the acknowledgement section be amended to be made more explicit so that it is acknowledged that important and valuable roles in the performance of the functions of the Police are played by "public agencies", "Maori wardens" and the "private security industry" (*Part 2, Clause 10*).

Comment

This clause does not alter or create law.

Confirmation procedure for regulations creating, amending or omitting Police powers

The Bill enables the Commissioner to appoint "police employees" who may be appointed on an "acting, temporary or casual basis or for any period that the Commissioner and the employee agree". The Bill also empowers the Commissioner of Police, by warrant, to authorise a Police employee (i.e. "an authorised officer") to exercise certain powers of a constable under other enactments or to authorise the employee to perform one or more particular policing roles set out in Schedule 1 of this Bill.

Schedule 1 of the Bill sets out the powers available to the performers of certain policing roles. These roles are: "Police jailer and escort"; "Police guard"; "Police specialist crime investigator"; and "Police transport enforcement officer".

The Bill provides for the making of regulations (made by the Governor-General by Order in Council) to amend the powers set out in Schedule 1 or to add new powers to Schedule 1 or to omit powers in Schedule 1. Such regulations are normal regulations published in the normal manner (i.e. they are regulations for the purposes of the Regulations (Disallowance) Act 1989 and the Acts and Regulations Publication Act 1989).

The Select Committee has recommended that such regulations must be confirmed by Act of Parliament within a year or eighteen months of their making (i.e. if the regulations are made before 30 June, they must be confirmed by Parliament in the same year; if they are made after 30 June, the regulations must be confirmed by Parliament before the end of the next year). If the regulations are not so confirmed they expire. However the validity of any act undertaken pursuant to or in accordance with such regulations before they expire (*Part 2, Subpart 3, amending Clause 27 of the Bill by inserting New subsection (3)*).

Comment

This confirmation procedure is used generally for such things as the imposition of producer levies or the levels of benefits and pensions, matters that Parliament wishes to have say on each year. The amendment, creation or omission of certain Police powers by regulation is also considered to be a serious matter on which Parliament wishes to keep close control of through the recommended confirmation procedure.

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