



New South Wales

Police Service Amendment (Selection and Appointment) Bill 2000

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are as follows:

- (a) to require the Commissioner of Police, when selecting the applicant of greatest merit for a vacant sergeant or non-executive commissioned officer position, to select only from among applicants who are not currently selected for any other Police Service position of the same or a greater maximum salary, and
- (b) to enable the Commissioner to create eligibility lists of applicants for all police and administrative non-executive officer positions (except constable positions) and to use such a list within a specified period after it is created to fill the position for which the list was created if it becomes vacant or to fill a position that is determined to be substantially the same as the position for which the list was created, without the need for the position to be advertised or for eligible persons to apply for the position, and

- (c) to confirm the validity of selections and appointments made on the basis of, and to allow the continued use of, eligibility lists created for non-executive administrative officer positions before the commencement of the amendments, and
- (d) to make minor and consequential amendments.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision giving effect to the amendments to the *Police Service Act 1990* set out in Schedule 1.

Schedule 1 Amendments

Schedule 1 [1] provides for the creation of eligibility lists as described in paragraph (b) of the Overview.

Schedule 1 [2], [4] and [6] provide that a vacant position need not be advertised if an eligibility list under the proposed new provisions is current and applicable to the position.

Schedule 1 [3] substitutes the provision that deals with appointments to vacant positions of non-executive commissioned police officer, to make the following changes to the selection and appointment process:

- (a) when selecting a person to fill a vacant position, the required selection of the applicant of greatest merit is to be made only from among applicants who have not currently been selected for any other police service position of the same or a greater maximum salary,
- (b) when selecting a person to fill a vacant position that has not been advertised because there is a current eligibility list for the position (under the proposed amendments concerning eligibility lists), the person on the eligibility list who is of greatest merit and who has not been selected for any other police service position of the same or a greater maximum salary is to be selected for the position without the need to apply for the position,

- (c) a right of appeal to GREAT is preserved so that an applicant for a position who is not selected because he or she has already been selected for another position will retain a right of appeal against that non-selection on the basis that he or she was the applicant of greatest merit.

This amendment also deletes existing subsections (2)–(4) of section 71, which duplicate section 64 (4)–(6).

Schedule 1 [5] substitutes the provision dealing with appointments to vacant positions of police officer of the rank of sergeant, to effect the same changes as are proposed for non-executive commissioned police officer positions.

Schedule 1 [7] and [8] amend the provision dealing with appointments to vacant non-executive administrative officer positions to provide that when selecting a person to fill a position that has not been advertised because there is a current eligibility list for the position (under the proposed amendments concerning eligibility lists), the person on the eligibility list who is of greatest merit is to be selected for the position without the need to apply for the position.

Schedule 1 [9] allows savings and transitional regulations to be made consequent on the enactment of the proposed Act.

Schedule 1 [10] confirms, in respect of non-executive administrative officer positions, the validity of the creation and use of eligibility lists prior to the commencement of the proposed provisions for eligibility lists. This will operate to confirm selections and appointments already made on the basis of such an eligibility list and will also enable the continued use of an eligibility list created before the commencement of the new provisions (subject to the requirement that eligibility lists only remain current for 6 or 12 months after they are created).



New South Wales

Police Service Amendment (Selection and Appointment) Bill 2000

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New South Wales

Police Service Amendment (Selection and Appointment) Bill 2000

No , 2000

A Bill for

An Act to amend the *Police Service Act 1990* to make further provision with respect to selection and appointment to certain positions in the Police Service; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Police Service Amendment (Selection and Appointment) Act 2000</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6 7
3 Amendment of Police Service Act 1990 No 47	8
The <i>Police Service Act 1990</i> is amended as set out in Schedule 1.	9

Schedule 1 Amendments

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(Section 3)

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[1] Section 67A

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Insert after section 67:

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67A Eligibility lists

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(1) This section applies to non-executive positions other than a position of police officer of the rank of constable.

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(2) When a vacant position to which this section applies is advertised in accordance with this Act, the Commissioner may, in connection with a determination of the merit of the persons eligible for appointment to the position, create an eligibility list for the position.

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(3) An eligibility list for a position is a list of eligible applicants (namely the persons who duly applied for appointment to the position and are eligible for appointment) arranged in order of merit as determined by the Commissioner.

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(4) An eligibility list for a position remains current:

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(a) in the case of a list prepared for a base grade or entry level position of a non-executive administrative officer—for 12 months after the list was created, or

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(b) in the case of a list prepared in relation to any other position—for 6 months after the list was created.

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(5) An eligibility list need not comprise all the eligible applicants so long as the applicants on the list are those of greatest merit. An eligibility list may even comprise only one eligible applicant so long as that applicant is the applicant of greatest merit.

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(6) An eligibility list is applicable not only to the position in relation to which it was created but also to any other position that the Commissioner determines it should be applicable to on the basis that the position is substantially the same as the position in relation to which the list was created.

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(7) In the case of positions of non-executive commissioned police officer or police officer of the rank of sergeant, the regulations may impose limitations on the positions that can be determined to be substantially the same as another position for the purposes of this section.	1 2 3 4 5
(8) In this section:	6
<i>base grade or entry level position</i> means a position of administrative officer to which no administrative officer, employed in the same classification of work as that to which the position relates, could be promoted.	7 8 9 10
[2] Section 69 Advertising of vacancies	11
Insert at the end of section 69:	12
(2) The vacancy need not be advertised if there is an eligibility list under section 67A that is current and applicable to the position.	13 14
[3] Section 71	15
Omit the section. Insert instead:	16
71 Appointment to be made on merit	17
(1) In deciding to appoint a person to a vacant position of a non-executive commissioned police officer:	18 19
(a) the Commissioner may only select a person who has duly applied for appointment to the position, and	20 21
(b) the Commissioner must, from among the applicants who are eligible for appointment to the vacant position (excluding those who are excluded from selection by subsection (3)), select the applicant who has, in the opinion of the Commissioner, the greatest merit.	22 23 24 25 26
(2) Despite subsection (1), in deciding to appoint a person to a vacant position of a non-executive commissioned police officer that has not been advertised in accordance with this Act because it is an eligibility list position, the Commissioner must, from among the persons who are on the relevant eligibility list	27 28 29 30 31

and who are available for appointment (excluding those who are excluded from selection by subsection (3)), select the person with the greatest merit according to the order of merit in that eligibility list.	1 2 3 4
(3) A person is excluded from selection for a vacant position if the person has been selected for appointment to another position in the Police Service the maximum salary for which is the same as or greater than the maximum salary for the vacant position. A person ceases to be selected for appointment to a position when the person is appointed to the position (other than by way of temporary appointment).	5 6 7 8 9 10 11
(4) In determining a person's entitlement to be appointed to a position under this section for the purposes of an appeal to GREAT, the fact that the person is excluded from selection for the position by subsection (3) is to be ignored.	12 13 14 15
Note. The effect of subsection (4) is that an applicant for a position will have his or her rights of appeal to GREAT maintained, even if at the time of selection the applicant was excluded from selection because he or she had already been selected for appointment to a position of equal or greater salary.	16 17 18 19 20
(5) In this section:	21
<i>eligibility list position</i> means a position to which a current eligibility list under section 67A is applicable.	22 23
<i>relevant eligibility list</i> , in relation to a position, means an eligibility list that is current and applicable to the position under section 67A.	24 25 26
[4] Section 76 Advertising of vacancies—sergeants	27
Insert at the end of section 76:	28
(2) The vacancy need not be advertised if there is an eligibility list under section 67A that is current and applicable to the position.	29 30
[5] Section 77	31
Omit the section. Insert instead:	32
77 Appointment of sergeants to be made on merit	33
(1) In deciding to appoint a person to a vacant position of a police officer of the rank of sergeant:	34 35

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| (a) | the Commissioner may only select a person who has duly applied for appointment to the position, and | 1
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| (b) | the Commissioner must, from among the applicants who are eligible for appointment to the vacant position (excluding those who are excluded from selection by subsection (3)), select the applicant who has, in the opinion of the Commissioner, the greatest merit. | 3
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| (2) | Despite subsection (1), in deciding to appoint a person to a vacant position of a police officer of the rank of sergeant that has not been advertised in accordance with this Act because it is an eligibility list position, the Commissioner must, from among the persons who are on the relevant eligibility list and who are available for appointment (excluding those who are excluded from selection by subsection (3)), select the person with the greatest merit according to the order of merit in that eligibility list. | 8
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| (3) | A person is excluded from selection for a vacant position if the person has been selected for appointment to another position in the Police Service the maximum salary for which is the same as or greater than the maximum salary for the vacant position. A person ceases to be selected for appointment to a position when the person is appointed to the position (other than by way of temporary appointment). | 17
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| (4) | In determining a person's entitlement to be appointed to a position under this section for the purposes of an appeal to GREAT, the fact that the person is excluded from selection for the position by subsection (3) is to be ignored. | 24
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| | Note. The effect of subsection (4) is that an applicant for a position will have his or her rights of appeal to GREAT maintained, even if at the time of selection the applicant was excluded from selection because he or she had already been selected for appointment to a position of equal or greater salary. | 28
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| (5) | In this section: | 33 |
| | <i>eligibility list position</i> means a position to which a current eligibility list under section 67A is applicable. | 34
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| | <i>relevant eligibility list</i> , in relation to a position, means an eligibility list that is current and applicable to the position under section 67A. | 36
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[6] Section 80 Advertising of vacancies	1
Insert at the end of section 80:	2
, or	3
(c) may, if there is an eligibility list under section 67A that	4
is current and applicable to the position, appoint an	5
administrative officer from the list without advertising	6
the vacancy.	7
[7] Section 81 Appointment on merit	8
Insert after section 81 (2):	9
(2A) Despite subsection (2), in deciding to appoint a person to a	10
vacant non-executive position of administrative officer that has	11
not been advertised in accordance with this Act because it is an	12
eligibility list position, the Commissioner must, from among	13
the persons who are on the relevant eligibility list and who are	14
available for appointment, select the person with the greatest	15
merit according to the order of merit in that eligibility list.	16
[8] Section 81 (4)	17
Insert after section 81 (3):	18
(4) In this section:	19
<i>eligibility list position</i> means a position to which a current	20
eligibility list under section 67A is applicable.	21
<i>relevant eligibility list</i> , in relation to a position, means an	22
eligibility list that is current and applicable to the position under	23
section 67A.	24
[9] Schedule 4 Savings, transitional and other provisions	25
Insert at the end of clause 2 (1):	26
<i>Police Service Amendment (Selection and Appointment) Act</i>	27
2000	28

[10] Schedule 4, Part 15	1
Insert after Part 14 of Schedule 4:	2
 Part 15 Provisions consequent on enactment of Police Service Amendment (Selection and Appointment) Act 2000	 3 4 5
 52 Eligibility lists for non-executive administrative officer positions	 6
(1) Any act, matter or thing done before the commencement of the eligibility list provisions in respect of a vacant non-executive position of an administrative officer that could have been validly done had those provisions been in force at the time it was done is taken to have been (and always to have been) validly done.	7 8 9 10 11 12
(2) A reference in the eligibility list provisions to an eligibility list extends to include a reference to an eligibility list created before the commencement of those provisions, the creation of which is validated by subclause (1).	13 14 15 16
(3) In this clause: <i>the eligibility list provisions</i> means the provisions of sections 67A, 80 (c) and 81 (2A) and (4), as inserted by the <i>Police Service Amendment (Selection and Appointment) Act 2000</i> .	17 18 19 20