

CONCURRENCE COPY

POLICE REGULATION (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to impose upon members of the police force a duty to protect life and property even though the acts endangering life or property are not criminal (Schedule 1 (1));
 - (b) to enable a person to make an affirmation, instead of taking an oath, on assuming office as a member of the police force (Schedule 1 (2) and (3));
 - (c) to enable certain evidence to be given by means of a certificate of the Commissioner of Police (Schedule 1 (4));
 - (d) to exculpate a member of the police force from liability for any damage caused by him in the execution of his duty in good faith (Schedule 1 (5)); and
 - (e) to make other amendments of a minor or consequential nature.
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POLICE REGULATION (AMENDMENT) BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Police Regulation Act, 1899, to clarify certain aspects of the duties and liabilities of a member of the police force.

[MR WRAN—8 *February*, 1978.]

Police Regulation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 **1.** This Act may be cited as the "Police Regulation Short title. (Amendment) Act, 1978".

2. The Police Regulation Act, 1899, is amended in the manner set forth in Schedule 1. Amendment
of Act No.
20, 1899.

SCHEDULE 1.

Sec. 2.

10 AMENDMENTS TO THE POLICE REGULATION ACT, 1899.

(1) Section 7A—

After section 7, insert :—

15 7A. (1) It is, and shall be deemed always to have been, the duty of a member of the police force to protect persons from injury or death and property from damage, whether the persons are, or the property is, endangered by criminal acts or otherwise. Duty to
protect
life and
property.

20 (2) The duty imposed by subsection (1) is in addition to, and does not derogate from, any other power, authority, duty or function conferred or imposed on a member of the police force by or under this or any other Act or by law.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899—
continued.

(2) (a) Section 9—

5 Omit “No”, insert instead “Subject to subsection (2),
no”.

(b) Section 9—

10 Omit “Such oath shall be administered by a Justice,
and shall in all cases be subscribed by the person
taking the same, and when so taken and subscribed
shall be forwarded to the Commissioner by the Justice
before whom the same was taken.”.

(c) Section 9 (2), (3)—

At the end of section 9, insert :—

15 (2) A person who objects to take an oath as pro-
vided by subsection (1) may, instead of taking the
oath, make a solemn affirmation in the like manner
and form—

20 (a) substituting the words “solemnly, sincerely
and truly declare and affirm” for the word
“swear” in the form of the oath; and

(b) omitting from the form of the oath the
words “So help me GOD”,

25 and the making of such an affirmation operates in
relation to subsection (1) in the same way as the
taking of the oath.

(3) An oath or affirmation under subsection (1)
or (2) shall—

(a) be administered or received by a Justice;

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899 —
continued.

5 (b) be subscribed by the person by whom it is
taken or made; and

(c) be forwarded by the Justice before whom it
is taken or made to the Commissioner.

(3) (a) Section 10—

10 Omit “such oath” where firstly occurring, insert in-
stead “the oath referred to in section 9 (1) or
making and subscribing an affirmation as provided by
section 9 (2)”.

(b) Section 10—

15 Omit “such oath” where secondly occurring, insert
instead “the oath or made the affirmation”.

(c) Section 10—

Omit “such oath has been taken and subscribed
until”, insert instead “he took and subscribed the oath
or made and subscribed the affirmation until he is”.

20 (4) Section 11—

After “oath,”, insert “affirmation,”.

(5) Section 17 (3)—

After section 17 (2), insert :—

25 (3) For the purposes of a prosecution under subsection
(1), a certificate by the Commissioner to the effect that a
uniform described in the certificate is the uniform of a
member of the police force is evidence of the matters
certified.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899 —
continued.

(6) Section 26A—

5 After section 26, insert :—

10 26A. A member of the police force is not liable for any injury or damage caused by him before or after the commencement of the Police Regulation (Amendment) Act, 1978, in the exercise or performance by him, in good faith, of a power, authority, duty or function conferred or imposed on him by or under this or any other Act or by law with respect to the protection of persons from injury or death or property from damage. Excul-
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liability.

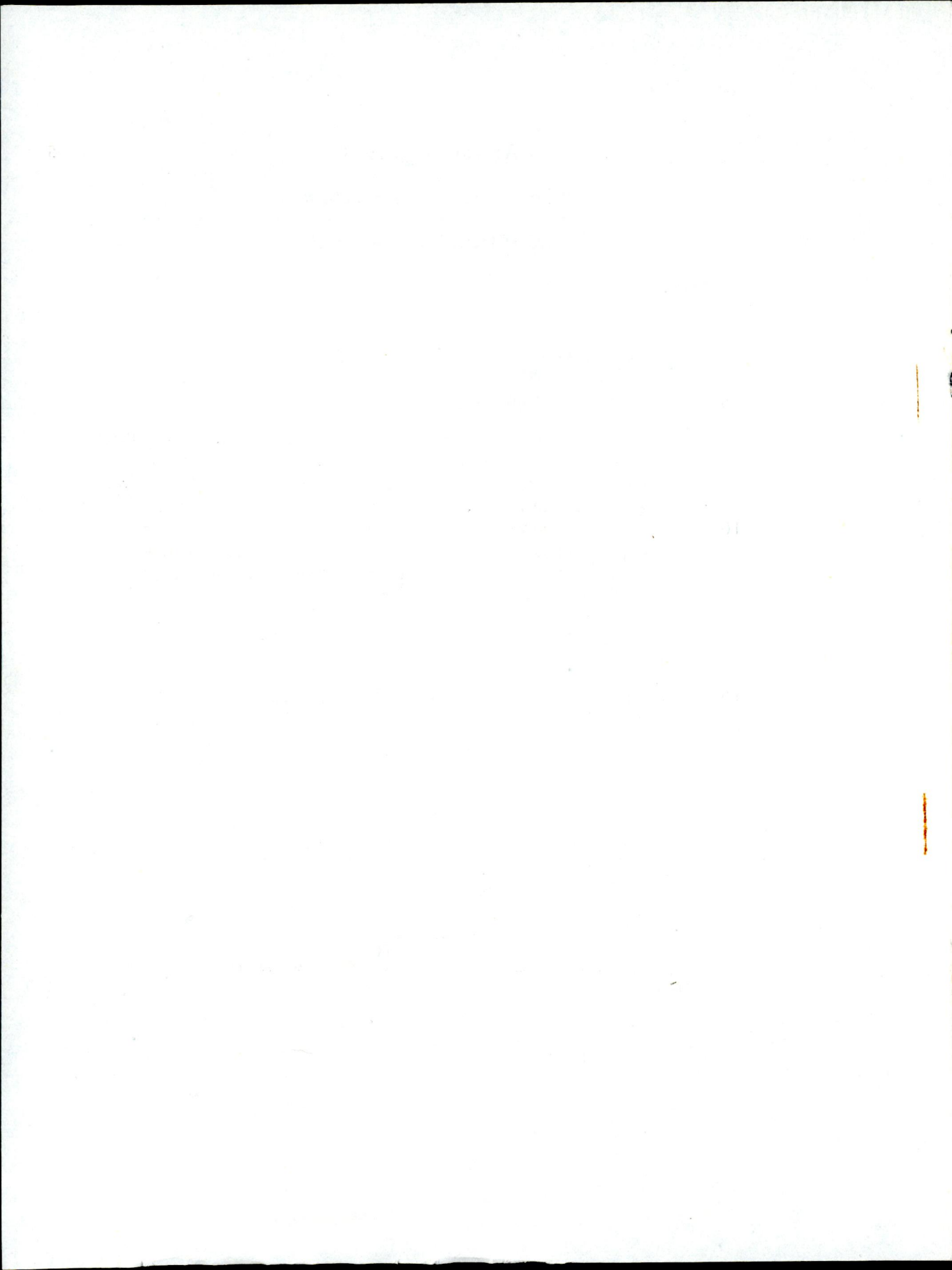
(7) Section 35 (1)—

15 Omit “applied in aid of the Police Superannuation Fund”,
insert instead “paid to the Consolidated Revenue Fund”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

[8c]



POLICE REGULATION (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to impose upon members of the police force a duty to protect life and property even though the acts endangering life or property are not criminal (Schedule 1 (1));
 - (b) to enable a person to make an affirmation, instead of taking an oath, on assuming office as a member of the police force (Schedule 1 (2) and (3));
 - (c) to enable certain evidence to be given by means of a certificate of the Commissioner of Police (Schedule 1 (4));
 - (d) to exculpate a member of the police force from liability for any damage caused by him in the execution of his duty in good faith (Schedule 1 (5)); and
 - (e) to make other amendments of a minor or consequential nature.
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POLICE REGULATION (AMENDMENT) BILL, 1978

EXPLANATORY NOTE

(This Explanatory Note relates to the Bill as introduced into Parliament.)

The objects of this Bill are—

- (a) to impose upon members of the police force a duty to protect life and property even though the person concerned is not a person to whom the Criminal Procedure Code (Section 144) applies;
- (b) to enable a person to make an application to the police for a search warrant or a search order in relation to the premises of a person to whom the Criminal Procedure Code (Section 144) applies;
- (c) to enable certain officers to be appointed as members of the Police Complaints Commission or Police Tribunal (Section 145);
- (d) to empower a member of the police force to issue a summons for any offence committed by him in the exercise of his duty in good faith (Section 146); and
- (e) to make other amendments in the law relating to the police force.

POLICE REGULATION (AMENDMENT) BILL, 1978

No. , 1978.

A BILL FOR

An Act to amend the Police Regulation Act, 1899, to clarify certain aspects of the duties and liabilities of a member of the police force.

[MR WRAN—8 February, 1978.]

Police Regulation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

5 1. This Act may be cited as the "Police Regulation Short title. (Amendment) Act, 1978".

2. The Police Regulation Act, 1899, is amended in the manner set forth in Schedule 1. Amendment of Act No. 20, 1899.

SCHEDULE 1.

Sec. 2.

10 AMENDMENTS TO THE POLICE REGULATION ACT, 1899.

(1) Section 7A—

After section 7, insert :—

15 7A. (1) It is, and shall be deemed always to have been, the duty of a member of the police force to protect persons from injury or death and property from damage, whether the persons are, or the property is, endangered by criminal acts or otherwise. Duty to protect life and property.

20 (2) The duty imposed by subsection (1) is in addition to, and does not derogate from, any other power, authority, duty or function conferred or imposed on a member of the police force by or under this or any other Act or by law.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899—
continued.

(2) (a) Section 9—

5 Omit “No”, insert instead “Subject to subsection (2),
no”.

(b) Section 9—

10 Omit “Such oath shall be administered by a Justice,
and shall in all cases be subscribed by the person
taking the same, and when so taken and subscribed
shall be forwarded to the Commissioner by the Justice
before whom the same was taken.”.

(c) Section 9 (2), (3)—

At the end of section 9, insert :—

15 (2) A person who objects to take an oath as pro-
vided by subsection (1) may, instead of taking the
oath, make a solemn affirmation in the like manner
and form—

20 (a) substituting the words “solemnly, sincerely
and truly declare and affirm” for the word
“swear” in the form of the oath; and

(b) omitting from the form of the oath the
words “So help me GOD”,

25 and the making of such an affirmation operates in
relation to subsection (1) in the same way as the
taking of the oath.

(3) An oath or affirmation under subsection (1)
or (2) shall—

(a) be administered or received by a Justice;

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899 —
continued.

5 (b) be subscribed by the person by whom it is taken or made; and

(c) be forwarded by the Justice before whom it is taken or made to the Commissioner.

(3) (a) Section 10—

10 Omit “such oath” where firstly occurring, insert instead “the oath referred to in section 9 (1) or making and subscribing an affirmation as provided by section 9 (2)”.

(b) Section 10—

15 Omit “such oath” where secondly occurring, insert instead “the oath or made the affirmation”.

(c) Section 10—

Omit “such oath has been taken and subscribed until”, insert instead “he took and subscribed the oath or made and subscribed the affirmation until he is”.

20 (4) Section 11—

After “oath,”, insert “affirmation,”.

(5) Section 17 (3)—

After section 17 (2), insert :—

25 (3) For the purposes of a prosecution under subsection (1), a certificate by the Commissioner to the effect that a uniform described in the certificate is the uniform of a member of the police force is evidence of the matters certified.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899 —
continued.

(6) Section 26A—

5 After section 26, insert :—

26A. A member of the police force is not liable for any injury or damage caused by him before or after the commencement of the Police Regulation (Amendment) Act, 1978, in the exercise or performance by him, in good faith, of a power, authority, duty or function conferred or imposed on him by or under this or any other Act or by law with respect to the protection of persons from injury or death or property from damage. Exculpation from certain liability.

10

(7) Section 35 (1)—

15 Omit “applied in aid of the Police Superannuation Fund”, insert instead “paid to the Consolidated Revenue Fund”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

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**POLICE REGULATION (AMENDMENT) ACT,
1978, No. 20**

New South Wales



ANNO VICESIMO SEPTIMO

ELIZABETHÆ II REGINÆ

Act No. 20, 1978.

An Act to amend the Police Regulation Act, 1899, to clarify certain aspects of the duties and liabilities of a member of the police force. [Assented to, 16th March, 1978.]

Police Regulation (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

Short title. **1.** This Act may be cited as the "Police Regulation (Amendment) Act, 1978".

Amendment of Act No. 20, 1899. **2.** The Police Regulation Act, 1899, is amended in the manner set forth in Schedule 1.

Sec. 2.

SCHEDULE 1.

AMENDMENTS TO THE POLICE REGULATION ACT, 1899.

(1) Section 7A—

After section 7, insert :—

Duty to protect life and property.

7A. (1) It is, and shall be deemed always to have been, the duty of a member of the police force to protect persons from injury or death and property from damage, whether the persons are, or the property is, endangered by criminal acts or otherwise.

(2) The duty imposed by subsection (1) is in addition to, and does not derogate from, any other power, authority, duty or function conferred or imposed on a member of the police force by or under this or any other Act or by law.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899—
continued.

(2) (a) Section 9—

Omit “No”, insert instead “Subject to subsection (2), no”.

(b) Section 9—

Omit “Such oath shall be administered by a Justice, and shall in all cases be subscribed by the person taking the same, and when so taken and subscribed shall be forwarded to the Commissioner by the Justice before whom the same was taken.”.

(c) Section 9 (2), (3)—

At the end of section 9, insert :—

(2) A person who objects to take an oath as provided by subsection (1) may, instead of taking the oath, make a solemn affirmation in the like manner and form—

(a) substituting the words “solemnly, sincerely and truly declare and affirm” for the word “swear” in the form of the oath; and

(b) omitting from the form of the oath the words “So help me GOD”,

and the making of such an affirmation operates in relation to subsection (1) in the same way as the taking of the oath.

(3) An oath or affirmation under subsection (1) or (2) shall—

(a) be administered or received by a Justice;

Police Regulation (Amendment).

SCHEDULE 1—*continued.*AMENDMENTS TO THE POLICE REGULATION ACT, 1899—
continued.

- (b) be subscribed by the person by whom it is taken or made; and
 - (c) be forwarded by the Justice before whom it is taken or made to the Commissioner.
- (3) (a) Section 10—
- Omit “such oath” where firstly occurring, insert instead “the oath referred to in section 9 (1) or making and subscribing an affirmation as provided by section 9 (2)”.
- (b) Section 10—
- Omit “such oath” where secondly occurring, insert instead “the oath or made the affirmation”.
- (c) Section 10—
- Omit “such oath has been taken and subscribed until”, insert instead “he took and subscribed the oath or made and subscribed the affirmation until he is”.
- (4) Section 11—
- After “oath,”, insert “affirmation,”.
- (5) Section 17 (3)—
- After section 17 (2), insert :—
- (3) For the purposes of a prosecution under subsection (1), a certificate by the Commissioner to the effect that a uniform described in the certificate is the uniform of a member of the police force is evidence of the matters certified.

Police Regulation (Amendment).

SCHEDULE 1—*continued.*

AMENDMENTS TO THE POLICE REGULATION ACT, 1899—
continued.

(6) Section 26A—

After section 26, insert :—

26A. A member of the police force is not liable for any injury or damage caused by him before or after the commencement of the Police Regulation (Amendment) Act, 1978, in the exercise or performance by him, in good faith, of a power, authority, duty or function conferred or imposed on him by or under this or any other Act or by law with respect to the protection of persons from injury or death or property from damage. <sup>Excul-
pation
from
certain
liability.</sup>

(7) Section 35 (1)—

Omit “applied in aid of the Police Superannuation Fund”,
insert instead “paid to the Consolidated Revenue Fund”.

In the name and on behalf of Her Majesty I assent to this Act.

A. R. CUTLER,
Governor.

*Government House,
Sydney, 16th March, 1978.*

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1978

(Section 10 of the Constitution)

Article 101 of the Constitution

Section 10 of the Constitution

Section 10 of the Constitution

Section 10 of the Constitution

Section 10 of the Constitution

J. K. CUTLER

(Signature)

Section 10 of the Constitution

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