

**POLICE REGULATION (FURTHER AMENDMENT) ACT,
1983, No. 192**

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 192, 1983.

An Act to amend the Police Regulation Act, 1899, with respect to the appointment and promotion of certain members of the police force; to increase the penalties for certain offences; to validate certain matters; and for other purposes. [Assented to, 31st December, 1983.]

Police Regulation (Further 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 (Further Amendment) Act, 1983".

Principal Act.

2. The Police Regulation Act, 1899, is referred to in this Act as the Principal Act.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

Amendment of Act No. 20, 1899.

4. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Saving.

5. Where a person is alleged to have committed, before the commencement of this Act, an offence against the Principal Act, as in force immediately before that commencement, that Act, as so in force, applies to and in respect of proceedings for the offence.

Police Regulation (Further Amendment).

Validation.**6. Any act, matter or thing—**

- (a) which purports to have been done under the Principal Act before the commencement of this Act; and
- (b) which could have been lawfully done only if that Act, as amended by this Act, had been in force when it was done,

is hereby validated.

SCHEDULE 1.

(Sec. 4.)

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT.**(1) (a) Section 4 (5)—**

Omit "The Commissioner shall be deemed to have vacated his office if he", insert instead "The Governor, on the recommendation of the Minister, may remove the Commissioner from office if the Commissioner".

(b) Section 4 (5) (c)—

Omit "cause; ", insert instead "cause; or".

(c) Section 4 (5) (d)—

Omit "Act; or", insert instead "Act.".

(d) Section 4 (5) (e)—

Omit the paragraph.

(e) Section 4 (6)—

After section 4 (5), insert:—

(6) The Commissioner may resign the office of Commissioner by notice in writing to that effect if the Governor, on the recommendation of the Minister, accepts the resignation.

Police Regulation (Further Amendment).

SCHEDULE 1—continued.**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—continued.****(2) Section 5AAA —**

After section 5, insert:—

Restriction on certain appointments.

5AAA. No person shall be appointed as the Commissioner, a Deputy Commissioner, an Assistant Commissioner or a superintendent of a prescribed grade unless the Minister has considered a report upon the person submitted under section 35A (1) (c) of the Police Regulation (Allegations of Misconduct) Act, 1978.

(3) Sections 6D, 6E, 6F—

After section 6C, insert:—

Deferment of promotion.

6D. (1) In this section, “qualified member” means a member of the police force who is—

- (a) a qualified inspector, within the meaning of section 5AA;
- (b) a qualified sergeant, within the meaning of section 5A; or
- (c) a qualified lower ranking member of the police force, within the meaning of section 6B or 6C.

(2) Where the Commissioner is required by the operation of section 5AA (8), 5A (8), 6B (8) or 6C (8), as the case may be, to recommend for appointment or to appoint a qualified member to a rank, the Commissioner may decline so to recommend or appoint the member if—

- (a) conduct of the member is the subject of a complaint, within the meaning of the Police Regulation (Allegations of Misconduct) Act, 1978, which is being investigated or conduct of the member is otherwise subject to investigation—
 - (i) by another member of the police force; or
 - (ii) in such circumstances as may be prescribed;

Police Regulation (Further Amendment).

SCHEDULE 1—continued.**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—continued.**

- (b) criminal proceedings instituted against the member have not been concluded;
- (c) a departmental charge preferred against the member has not been determined; or
- (d) the member is, in the opinion of the Commissioner, incapacitated to such an extent as to be unable to discharge adequately his duties as a member of the police force.

(3) Where, pursuant to subsection (2), the Commissioner declines to recommend for appointment or to appoint a person who is a qualified member to a rank—

- (a) section 5AA (8), 5A (8), 6B (8) or 6C (8), as the case may be, applies to and in respect of any recommendation for appointment or appointment to the rank as if the person were not a qualified member; and
- (b) if the person is subsequently appointed to the rank and the Commissioner so directs by order in writing, the person is senior, in that rank, to any other person who was appointed to the rank by reason of the Commissioner's having so declined to recommend or appoint the person.

Reduction in rank or grade.

6E. (1) The Governor may reduce in rank or grade any member of the police force appointed by the Governor, other than the Commissioner.

(2) A member of the police force may be reduced in rank or grade under subsection (1) so as to hold any rank or grade under this Act which is a lower rank or grade than that held by the member before being so reduced.

(3) Sections 5AA, 5A, 6B and 6C do not apply to or in respect of—

- (a) the reduction in rank or grade of a member of the police force by the Governor or the Commissioner; or

Police Regulation (Further Amendment).

SCHEDULE 1—continued.**MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—continued.**

- (b) any recommendation to the Governor for the reduction in rank or grade of a member of the police force under subsection (1).

(4) Notwithstanding section 5AA (9), 5A (9), 6B (9) or 6C (9), where a member of the police force is reduced in rank or grade by the Governor or the Commissioner, the seniority of that member in the rank or grade to which the member is reduced shall be that determined by the person who reduced the member in rank or grade.

(5) Nothing in this section affects any power of the Governor under section 30 of the Interpretation Act, 1897, to remove or suspend a member of the police force from office.

Reduction in seniority.

6F. Notwithstanding section 5AA (9), 5A (9), 6B (9) or 6C (9), where, by reason of a penalty imposed by the Commissioner on a member of the police force, the seniority of the member in a rank or grade is reduced, the seniority of that member in the rank or grade shall be that determined by the Commissioner.

- (4) Section 10A (3)—

Omit the subsection.

- (5) (a) Section 12 (1A)—

From section 12 (1), omit "Different", insert instead "(1A) Different".

- (b) Section 12 (1B)—

From section 12 (1), omit "Any such rule", insert instead "(1B) A rule made under this Act".

Police Regulation (Further Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(c) Section 12 (1c)—

Before section 12 (2), insert:—

(1c) Without affecting the generality of subsection (1), rules may be made under this Act for or with respect to—

(a) the imposition, by the Commissioner, of any one or more of the following penalties in such circumstances relating to the discipline of the members of the police force as may be prescribed:—

- (i) the dismissal or reduction in rank or grade of a member of the police force, other than a member appointed by the Governor;
- (ii) the reduction in seniority of a member of the police force, other than a Deputy Commissioner;
- (iii) the reduction in pay of a member of the police force, other than a Deputy Commissioner or an Assistant Commissioner;
- (iv) the suspension from office, with or without pay, of a member of the police force, other than a member appointed by the Governor;
- (v) the imposition of a fine upon a member of the police force; and

(b) the implementation of determinations of the Police Tribunal of New South Wales.

(d) Section 12 (3)—

After section 12 (2), insert:—

(3) A fine imposed by the Commissioner upon a member of the police force pursuant to the rules made under this Act may be recovered—

- (a) in any court of competent jurisdiction as a debt due to the Crown; or
- (b) from the pay of that member, in accordance with those rules.

Police Regulation (Further Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(6) (a) Section 15 (2)—

Omit “two hundred dollars, or to imprisonment for a term not exceeding six months”, insert instead “\$2,000, or to imprisonment for a term not exceeding 2 years”.

(b) Section 15 (3)–(6)—

After section 15 (2), insert:—

(3) Where a member of the police force has been convicted of an offence under subsection (2), any property—

(a) to which the offence relates; and

(b) which is in the custody or under the control of the member,

shall, for the purposes of section 358A (1) of the Crimes Act, 1900, be treated as being in the custody of the member in connection with that offence.

(4) Any person, whether or not a member of the police force, who—

(a) gives or offers, or promises to give, any bribe, recompense or reward to; or

(b) makes any collusive agreement with,

a member of the police force for the purpose of inducing the member to neglect the member's duty, or to conceal or connive at any act whereby any rule made under this Act may be evaded is guilty of an offence against this Act and is liable, in addition to any other punishment to which that person may be liable for that offence, to a penalty not exceeding \$2,000, or to imprisonment for a term not exceeding 2 years, or to both.

Police Regulation (Further Amendment).

SCHEDULE 1—*continued.*

MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) Nothing prevents proceedings for an offence under subsection (1), (2) or (4) from being brought against a person who has ceased to be a member of the police force, but who was such a member when the offence is alleged to have been committed.

(6) Proceedings for an offence under subsection (2) or (4) may be commenced by information laid within 2 years after the time when the offence is alleged to have been committed.

(7) (a) Section 17 (1) (d)—

Omit the paragraph.

(b) Section 17 (1)—

Omit “or (d)”.

(8) Section 18—

Omit the section, insert instead:—

Vacation of office.

18. Notwithstanding any other provision of this or any other Act or law, a member of the police force shall not vacate office as such, whether by retiring or resigning or by reason of the operation of this Act or otherwise, unless—

(a) the member does so with the authority in writing—

(i) in the case of the Commissioner, of the Minister; or

(ii) in the case of any other member of the police force, of the Commissioner;

Police Regulation (Further Amendment).

SCHEDULE 1—*continued.*MISCELLANEOUS AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) the member has given not less than 4 weeks' notice in writing of the day on which the member intends to vacate office—
 - (i) in the case of the Commissioner, to the Minister; or
 - (ii) in the case of any other member of the police force, to the Commissioner,and the member has not been suspended from office for a period extending past that day and is not under suspension from office on that day; or
- (c) the member does so by reason of—
 - (i) death;
 - (ii) being removed from office under section 4 (4) or under section 30 of the Interpretation Act, 1897;
 - (iii) being dismissed from office pursuant to the rules made under this Act; or
 - (iv) being retired from office under section 4A (3) (c) or 4B (3) (c).

SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION.

- (1) Sections 8, 14, 15—

Omit "shall, on conviction before two Justices, be" wherever occurring, insert instead "is guilty of an offence against this Act and is".

- (2) Section 16 (2)—

Omit "shall, on conviction before a Justice, be", insert instead "is guilty of an offence against this Act and is".

- (3) Section 17 (1)—

Omit "shall be", insert instead "is guilty of an offence against this Act and is".

Police Regulation (Further Amendment).

SCHEDULE 2—*continued.*

AMENDMENTS TO THE PRINCIPAL ACT BY WAY OF STATUTE LAW REVISION—*continued.*

(4) (a) Section 17A—

Omit “shall be guilty of an offence and shall be” wherever occurring, insert instead “is guilty of an offence against this Act and is”.

(b) Section 17A (4)—

Omit “against”, insert instead “under”.

(c) Section 17A (6) (b)—

Omit “shall be” where firstly occurring, insert instead “is guilty of an offence against this Act and is”.

(5) Section 19 (2)—

Omit “shall, upon conviction before two Justices, be”, insert instead “is guilty of an offence against this Act and is”.

(6) Section 21 (1)—

Omit “under”, insert instead “against”.

(7) Section 22—

Omit the section, insert instead:—

Proceedings for offences.

22. Proceedings for an offence against this Act may be taken before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

(8) Section 34—

Omit “Justice”, insert instead “stipendiary magistrate”.

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

L. W. STREET,
By Deputation from
His Excellency the Governor.

Government House,
Sydney, 31st December, 1983.

