

**POLICE DEPARTMENT (TRANSIT POLICE) ACT 1989**  
**No. 58**

NEW SOUTH WALES



**TABLE OF PROVISIONS**

**PART 1—PRELIMINARY**

1. Short title
2. Commencement
3. Objects
4. Definitions

**PART 2—ORGANISATION OF TRANSIT POLICE SERVICE**

5. Formal transfer of SRA staff
6. Transit police service
7. Classifications and positions
8. Maximum number of members
9. Duties of members

**PART 3—EMPLOYMENT**

10. Employment of members
11. Requirements as to citizenship etc.
12. Vacation of position
13. Retirement of members
14. Incapable member may be retired
15. Transfer of members
16. Excess staff
17. Excessive remuneration
18. Refusal of transfer
19. Other employment

**PART 4—CONDITIONS OF EMPLOYMENT**

20. Conditions of employment
21. Determination of remuneration
22. Industrial Authority to be employer for certain purposes
23. Right of Crown to dispense with services
24. No compensation

**PART 5—DISCIPLINE**

25. Investigation of complaints
26. Breaches of discipline
27. Procedure for dealing with breaches of discipline
28. Punishment for breaches of discipline
29. Punishment where member guilty of offence
30. Suspension of members

*Police Department (Transit Police) 1989*

---

PART 6—MISCELLANEOUS

31. Eligibility for appointment to Public Service
32. Delegation by Commissioner
33. Attachment of remuneration
34. Bribes etc.
35. Uniforms etc.
36. Proceedings for offences
37. Regulations
38. Amendment of Government and Related Employees Appeal Tribunal Act 1980 No. 39
39. Amendment of Ombudsman Act 1974 No. 68—Schedule 1 (Excluded Conduct of Public Authorities)
40. Amendment of Transport Administration Act 1988 No. 109
41. Savings, transitional and other provisions

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

---

**POLICE DEPARTMENT (TRANSIT POLICE) ACT 1989 No. 58**

NEW SOUTH WALES



**Act No. 58, 1989**

An Act relating to the employment of transit police and the regulation of the conditions of their employment; and for other purposes. [Assented to 22 May 1989]

*Police Department (Transit Police) 1989*

---

**The Legislature of New South Wales enacts:**

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the Police Department (Transit Police) Act 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Objects**

3. The principal objects of this Act are—

- (a) to formalise the transfer of responsibility for certain officers of the Transport Investigation Branch of the State Rail Authority to the Commissioner; and
- (b) to provide for the employment in the service of the Crown of the officers so transferred as members of an organisation (“the transit police service”) functioning in the Police Department; and
- (c) to provide for the Commissioner to be regarded as their employer in all but industrial matters; and
- (d) to ensure that the Commissioner may discipline them in the same way as they could be disciplined if they were members of the Police Force; and
- (e) to make provision to preserve certain entitlements of the transferred officers.

**Definitions**

4. (1) In this Act—

“classification” means a classification of the transit police service referred to in section 7;

“Commissioner” means the Commissioner of Police;

“Industrial Authority” means the Public Employment Industrial Relations Authority constituted by the Public Sector Management Act 1988;

“remuneration” includes salary and wages;

“transit police service” means the transit police service, as referred to in section 6 (1).

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority and duty; and
- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

**PART 2—ORGANISATION OF TRANSIT POLICE SERVICE****Formal transfer of SRA staff**

5. (1) On the commencement of this subsection—

- (a) the positions specified in an order made under subsection (2) shall be transferred to the transit police service; and
- (b) the persons then employed in those positions shall be taken to be employed as members of the transit police service under this Act.

(2) The Governor may, on the recommendation of the Commissioner, by order published in the Gazette, specify the positions in the Transport Investigation Branch of the State Rail Authority to be transferred under this section.

(3) The order may nominate the classification of a transferred position.

**Transit police service**

6. (1) The transit police service consists of the persons employed as transit police under this Act.

(2) The principal function of the transit police service is to promote security, safety and order on public transport in the State, including railways and trains.

(3) The Public Sector Management Act 1988 does not apply to or in respect of the appointment or employment of a member of the transit police service and a member of the transit police service, is not, as such a member, subject to that Act.

(4) A member of the transit police service is not a member of the Police Force.

**Classifications and positions**

7. (1) The classifications of the transit police service are—

- (a) Chief Transit Police Officer; and
- (b) Senior Transit Police Officer; and
- (c) Patrol Officer—1st Class; and
- (d) Patrol Officer,

and such other classifications as the Minister may from time to time determine.

(2) The Commissioner may create positions in any classification.

**Maximum number of members**

8. The Minister may from time to time make determinations relating to either or both of the following:

*Police Department (Transit Police) 1989*

---

- (a) the classes or descriptions of members of the transit police service who may be employed in any classification;
- (b) the maximum number of members of the transit police service who may be employed in any classification.

**Duties of members**

9. (1) The duties of members of the transit police service shall be as determined by the Commissioner or as specified by the regulations.

(2) In the event of an inconsistency, the regulations prevail.

(3) A member of the transit police service is not liable for any injury or damage caused by any act or omission of the member in the performance by the member, in good faith, of a duty conferred or imposed on the member by or under this Act.

**PART 3—EMPLOYMENT**

**Employment of members**

10. (1) If a vacancy exists in a position in the transit police service, the Commissioner may, by way of transfer or promotion, appoint a member of the transit police service to be employed in the service of the Crown in the position.

(2) The Commissioner must, from the applicants for a vacant position, select the applicant who has, in the opinion of the Commissioner, the greatest merit.

(3) In determining the merit of applicants, the Commissioner shall have regard to—

- (a) the nature of the duties of the position; and
- (b) the abilities, qualifications, experience, standard of work performance and personal qualities of the applicants that are relevant to the performance of those duties.

(4) A decision to make an appointment under this section shall not be acted on (except by way of temporary appointment)—

- (a) until the expiration of the time for lodging a notice of an appeal under the Government and Related Employees Appeal Tribunal Act 1980 against the decision; or
- (b) if such a notice of appeal is lodged within that time, until the Government and Related Employees Appeal Tribunal has determined the appeal or the appeal has been withdrawn.

**Requirements as to citizenship etc.**

11. (1) A person is not eligible to be appointed to a position as a member of the transit police service unless the person is—

*Police Department (Transit Police) 1989*

---

- (a) an Australian citizen; or
- (b) a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law,

and, if so required by or under the regulations, the person produces in accordance with the regulations such evidence with respect to any matters referred to in this section as is prescribed.

(2) A member of the transit police service who is not an Australian citizen and who ceases to satisfy or does not satisfy the requirements of subsection (1) (b) is not eligible to continue in employment as a member of the transit police service and shall be dismissed as such a member by the Commissioner.

**Vacation of position**

12. (1) A member of the transit police service shall be taken to have vacated his or her position if—

- (a) the member dies; or
- (b) the member resigns the position by instrument in writing addressed to the Commissioner and the Commissioner accepts the resignation; or
- (c) the member retires or is retired; or
- (d) the member is dismissed under this Act; or
- (e) the member's services are dispensed with as referred to in this Act.

(2) When a member of the transit police service is dismissed from or ceases to hold his or her position, all powers and authorities vested in the person shall immediately cease.

(3) Any member of the transit police service so dismissed or ceasing to hold his or her position shall immediately deliver all things—

- (a) supplied to the person as such a member; or
  - (b) in the person's custody by virtue of being such a member,
- to some person appointed (whether generally or specially) by the Commissioner for the purpose.

Maximum penalty: 10 penalty units or imprisonment for 3 months.

**Retirement of members**

13. (1) A member of the transit police service—

- (a) may retire as a member of the service on reaching the age of 60 years; or
- (b) may continue as a member of the service after reaching that age, but—
  - (i) may retire as a member; or

*Police Department (Transit Police) 1989*

---

(ii) the Commissioner may cause the member to be retired as a member,

at any time after the member has reached that age and before the member reaches the age of 65 years.

(2) A member of the transit police service who reaches the age of 65 years shall, subject to subsection (3), then retire or be retired by the Commissioner.

(3) If—

(a) the Commissioner is of the opinion that it is in the public interest that a member of the transit police service who is of or above the age of 65 years should continue to perform the duties of his or her position; and

(b) the member agrees to continue to perform those duties, the member's retirement may be deferred for a period not exceeding 12 months and thereafter, so long as the member agrees to continue to perform those duties, from time to time for such periods, not exceeding 12 months, as the Commissioner may fix.

(4) Despite any such deferment, the Commissioner may cause the member of the transit police service to be retired at any time.

**Incapable member may be retired**

14. If—

(a) a member of the transit police service is found unfit to discharge or incapable of discharging the duties of his or her position; and

(b) the unfitness or incapacity appears likely to be of a permanent character, and has not arisen from actual misconduct on his or her part, or from causes within his or her control,

the Commissioner may cause the member to be retired.

**Transfer of members**

15. (1) The Commissioner, if of the opinion that it would be in the interests of the administration of this Act to do so, may transfer a member of the transit police service from one position as a member of the service to another such position equal in remuneration to that of the firstmentioned position.

(2) Such a transfer may be made only if the member has the necessary qualifications for the other position.

**Excess staff**

16. If the Commissioner is satisfied that a number of persons (referred to in this section as the "excess persons") are employed as members of the transit police service in excess of the number that appears to be necessary for the efficient, effective and economical management of the functions of the service, then—



*Police Department (Transit Police) 1989*

- (a) subject to paragraph (b), the Commissioner shall take such steps as are practicable to transfer the excess persons under section 15; and
- (b) if any such person cannot be usefully employed in any other position as a member of the service, the person's services shall be dispensed with by the Commissioner.

**Excessive remuneration**

17. (1) If the Commissioner is satisfied that a member of the transit police service is in receipt of greater remuneration than the maximum fairly appropriate to the work performed by the member, the Commissioner shall take such steps as are practicable to assign the member work of a class appropriate to the remuneration.

(2) If the member cannot be assigned sufficient work of the kind referred to in subsection (1) or is unfit for or incapable of performing work appropriate to the remuneration—

- (a) subject to paragraph (b), the Commissioner shall take such steps as are practicable to transfer the member under section 15; and
- (b) if such a transfer cannot be made or the member is unfit for or incapable of performing the work attached to another position of equal remuneration—
  - (i) the Industrial Authority shall reduce the employee's remuneration to the maximum determined by the Industrial Authority to be appropriate for the work performed by the member; and
  - (ii) the Commissioner may take such steps as are practicable to secure the transfer of the employee to a position as a member of the transit police service at that salary.

(3) If a reduction of remuneration of a member of the transit police service under this section is certified by the Industrial Authority to have been made on the ground only that appropriate work or an appropriate position is not available, the member—

- (a) remains eligible for promotion as if the member's remuneration had not been reduced; and
- (b) is entitled to employment in the class of work to which the member's previous remuneration was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other member of the service whose salary has not been reduced.

**Refusal of transfer**

18. (1) A member of the transit police service who refuses a transfer from one position to another under this Part may be dismissed by the Commissioner.

*Police Department (Transit Police) 1989*

---

(2) If the Commissioner is satisfied that the member of the transit police service has a valid and sufficient reason for refusing the transfer, the member may be allowed to decline the transfer without prejudice to any rights that the member would, had he or she not declined the transfer, have had to any future promotion or appointment.

**Other employment**

19. (1) Except with the permission of the Commissioner, a member of the transit police service shall not engage in any trade, business or profession or in any other remunerative employment.

(2) If—

(a) a member of the transit police service is the holder of any office or position; or

(b) is engaged in any employment whatever,

otherwise than in connection with the duties of his or her position as a member of the service, the member shall at once notify the fact to the Commissioner, who may require the member to resign the office or position or abstain from engaging in the employment.

(3) The Commissioner may withdraw a permission under subsection (1) at any time.

**PART 4—CONDITIONS OF EMPLOYMENT**

**Conditions of employment**

20. (1) The Industrial Authority may, where the conditions of employment of any member of the transit police service are not fixed in accordance with the provisions of any other Act or law, fix the conditions of employment of the member.

(2) The regulations may make provision for or with respect to the conditions of employment of members of the transit police service.

(3) The regulations made for the purposes of subsection (2)—

(a) shall have effect subject to any relevant award or industrial agreement; and

(b) shall have effect despite the provisions of subsection (1).

(4) A reference in this section to conditions of employment does not include a reference to the rates of remuneration payable to a member of the transit police service.

(5) The references in section 20A (1) of the Industrial Arbitration Act 1940 to the dismissal or proposed dismissal of an employee are, in relation to a person employed under this Act, references to the termination or proposed termination of the employment of the person—

- (a) under section 28 (Punishment for breaches of discipline) or 29 (Punishment where member guilty of offence), including the termination or proposed termination of the employment of the person under section 28 or 29 pursuant to a direction that the person resign or be allowed to resign; or
- (b) as referred to in section 23 (Right of Crown to dispense with services).

**Determination of remuneration**

21. (1) Except in so far as provision is otherwise made by law, the remuneration of members of the transit police service shall be as determined from time to time by the Industrial Authority.

(2) A member of the transit police service may sue for and recover the amount of the remuneration that is the subject of such a determination and payable to the member.

**Industrial Authority to be employer for certain purposes**

22. (1) The Industrial Authority shall, for the purposes of any proceedings relating to a member of the transit police service held before a competent tribunal having power to deal with industrial matters, be taken to be the employer of the member, except for the purposes of any such proceedings relating to—

- (a) the dismissal, suspension or reinstatement of the member; or
- (b) the powers of the Commissioner with respect to the discipline, promotion or transfer of the member.

(2) The Industrial Authority may enter into an agreement with any association or organisation representing any group or class of members of the transit police service as to any industrial matters.

(3) Such an agreement shall bind all members of the transit police service in the class or group affected by the agreement and no such member, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(4) Nothing in this section authorises—

- (a) the Industrial Authority to act as an employer; or
- (b) any function to be exercised by or in relation to the Industrial Authority,

otherwise than for the purposes of and in accordance with this section.

**Right of Crown to dispense with services**

23. Nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown, as existing apart from this Act, to dispense with the services of any person employed in the service of the Crown as a member of the transit police service.

**No compensation**

24. Except as provided in this or any other Act, a member of the transit police service is not entitled to any compensation as a result of the member's services being dispensed with or the member's remuneration being reduced.

**PART 5—DISCIPLINE****Investigation of complaints**

25. The Police Regulation (Allegations of Misconduct) Act 1978 applies to and in respect of a member of the transit police service as if—

- (a) references in that Act to a member of the Police Force, were references to a member of the transit police service; and
- (b) references in that Act to the Police Regulation Act 1899 or the rules made under that Act, were references to this Act and the regulations made under it; and
- (c) references in that Act to a departmental charge, were references to a departmental charge preferred against a member of the transit police service in accordance with this Act or the regulations.

**Breaches of discipline**

26. A member of the transit police service who—

- (a) commits any breach of this Act or the regulations; or
- (b) is disobedient; or
- (c) neglects or omits to discharge, or is incompetent in the discharge of, his or her duties; or
- (d) uses intoxicating beverages or drugs to excess while on duty or in uniform; or
- (e) is disrespectful to any person in authority; or
- (f) engages in insolent or indecorous behaviour; or
- (g) uses any words or engages in an action subversive of discipline or calculated to impair the efficiency of, or bring discredit on, the service,

is guilty of a breach of discipline.

**Procedure for dealing with breaches of discipline**

27. (1) If the Commissioner considers that action should be taken against a member of the transit police service alleged to have committed a breach of discipline, the Commissioner may—

- (a) direct the preferment of a departmental charge against the member; or
- (b) if an offence appears to have been committed, direct the institution of court proceedings against the member for the offence.

*Police Department (Transit Police) 1989*

---

(2) Departmental charges other than those heard and determined by the Police Tribunal under section 41 (Hearing of disciplinary charges) of the Police Regulation (Allegations of Misconduct) Act 1978 shall be dealt with by the Commissioner.

(3) Subject to this Act, the regulations may—

(a) make provision for or with respect to—

- (i) the manner of dealing with alleged breaches of discipline; and
- (ii) the institution and conduct of proceedings before the Police Tribunal relating to departmental charges preferred against a member of the transit police service; and
- (iii) the implementation of determinations and recommendations of the Police Tribunal in relation to charges against members of the service; and

(b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

**Punishment for breaches of discipline**

28. (1) If an alleged breach of discipline is dealt with by the Commissioner in accordance with the regulations and the member of the transit police service charged is found to have committed the breach or admits to the person or persons dealing with the breach that he or she committed the breach, the Commissioner—

(a) may decide to impose on the member any one or more of the following punishments:

- (i) a caution;
- (ii) a reprimand;
- (iii) a fine;
- (iv) a reduction in remuneration;
- (v) a reduction to a lower classification or position as a member of the transit police service; or

(b) may decide to dismiss the member or to direct that the member resign, or be allowed to resign, within such period as may be specified in the direction.

(2) If the Commissioner, in the exercise of powers under this section, decides to direct that a member of the transit police service resign, or be allowed to resign, within a period specified in the direction, and the member does not resign within that period, the Commissioner may decide to dismiss the member.

(3) Subject to Part 3 of the Government and Related Employees Appeal Tribunal Act 1980, a decision of the Commissioner under this section may be given effect to at any time.

*Police Department (Transit Police) 1989*

---

(4) A fine imposed by the Commissioner on a member of the transit police service may be recovered—

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

**Punishment where member guilty of offence**

29. (1) This section applies where a member of the transit police service is—

- (a) convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for a term of 12 months or more; or
- (b) convicted elsewhere of an offence that, if committed in New South Wales, would be an offence so punishable; or
- (c) convicted of an offence in proceedings instituted under section 27 (1) (b).

(2) The Commissioner may impose on the member of the transit police service any one or more of the punishments that may be imposed under section 28 as if the member had, in accordance with that section, been dealt with for a breach of discipline and were liable to those punishments.

**Suspension of members**

30. (1) If a member of the transit police service—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- (b) is charged with having committed an offence referred to in section 27 (1) (b); or
- (c) is charged with having committed an offence referred to in section 29 (1),

the Commissioner may suspend the member from duty until the charge has been dealt with.

(2) The Commissioner may lift the suspension of a member of the transit police service at any time.

(3) Any remuneration payable to a suspended member of the transit police service shall be withheld during the period of suspension, unless the Commissioner otherwise directs.

(4) Any such remuneration shall, unless the Commissioner otherwise directs, be forfeited if—

- (a) the member is found to have committed the breach of discipline or admits to having committed the breach of discipline; or

*Police Department (Transit Police) 1989*

(b) the member is convicted of the offence, unless it was due before the suspension or was paid pursuant to a direction under subsection (3).

(5) This section has effect subject to the Government and Related Employees Appeal Tribunal Act 1980.

**PART 6—MISCELLANEOUS****Eligibility for appointment to Public Service**

31. (1) A member of the transit police service with at least 5 years' satisfactory service as such may apply for a position in the Public Service as if the member were a public servant.

(2) A member of the transit police service who applies for such a position, or is appointed or employed as a public servant, shall be taken (for the purposes of the Public Sector Management Act 1988, the Government and Related Employees Appeal Tribunal Act 1980 and the Industrial Arbitration Act 1940 and for any other purposes) to be an officer of the Public Service in relation to the application, appointment or employment.

(3) There is no right of appeal under the Government and Related Employees Appeal Tribunal Act 1980—

- (a) for a person against the filling of a position in the Public Service by a member of the transit police service; or
- (b) for a member of the transit police service against the filling of a position in the Public Service by another person.

(4) For the purposes of this section, service is not satisfactory if it is of a kind prescribed by the regulations for the purposes of this section.

**Delegation by Commissioner**

32. (1) The Commissioner may delegate to—

- (a) a member of the Police Force; or
- (b) a public servant employed in the Police Department; or
- (c) a member of the transit police service,

the exercise of any of the Commissioner's functions under this Act, other than this power of delegation.

(2) If—

- (a) a function of the Commissioner is delegated under subsection (1); and
- (b) the instrument of delegation authorises the sub-delegation of the function,

then, subject to any conditions to which the delegation is subject, the delegate may sub-delegate the function to a person described in subsection (1).

**Attachment of remuneration**

33. (1) If judgment has been entered in any court against any member of the transit police service for the payment of a sum of money, the person in whose favour the judgment is entered may serve on the Commissioner—

- (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and
- (b) a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2) As soon as practicable after the service on the Commissioner of a copy of a judgment and a statutory declaration in accordance with this section, the Commissioner must—

- (a) notify the judgment debtor in writing of the service of the copy of the judgment and statutory declaration; and
- (b) require the judgment debtor—
  - (i) to state in writing within a time to be specified by the Commissioner whether the judgment has been satisfied; and
  - (ii) if so, to furnish evidence that the judgment has been satisfied; and
  - (iii) if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If the member of the transit police service fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may—

- (a) from time to time cause to be deducted from any money due to the member such sums as are, in the Commissioner's opinion, necessary to enable the judgment to be satisfied; and
- (b) apply those sums in the manner provided by the following provisions of this section.

(4) A deduction must not be made under this section if it would reduce the amount to be received by the member to less than a sum per week equivalent to the amount ascertained in accordance with subsection (5).

(5) The amount which, by virtue of subsection (4), is to be ascertained in accordance with this subsection must be ascertained by—

- (a) in the case of a male member of the transit police service—deducting \$8 from the basic wage for adult males; and
- (b) in the case of a female member of the transit police service—deducting \$8 from the basic wage for adult females,

in force within the meaning of Part 5 of the Industrial Arbitration Act 1940 immediately before the deduction under subsection (3) is made.



*Police Department (Transit Police) 1989*

---

(6) If copies of more than one judgment and statutory declaration are served on the Commissioner in respect of a single judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served on the Commissioner.

(7) Any deductions made under subsection (3) from money due to a member of the transit police service shall, as between the Crown and the member, be regarded as a payment by the Crown to the member.

(8) If a person to whom a payment has been made under this section fails to notify the Commissioner immediately the judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, the person is liable, on conviction before a Local Court, to a penalty not exceeding 1 penalty unit.

(9) If any deduction made in accordance with subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment against the judgment debtor—

- (a) the Commissioner must repay the amount of the excess; and
- (b) in default of payment, the judgment debtor may recover that amount from the Crown in any court of competent jurisdiction.

(10) This section does not apply in relation to any member of the transit police service who is an undischarged bankrupt.

(11) Out of the sums deducted under subsection (3), there shall be retained by the Commissioner, to be paid to the Treasurer for credit of the Consolidated Fund, an amount equal to 5 per cent (or such other amount as the Governor may, by order, notify in the Gazette) of those sums, and the balance of those sums shall be paid to the judgment creditor.

(12) If a payment is made to a judgment creditor under subsection (11), the Commissioner must forward to the judgment creditor a statement showing—

- (a) the sums deducted under subsection (3) in respect of the judgment from money due to the member of the transit police service concerned; and
- (b) the amount retained by the Commissioner under subsection (11) out of those sums; and
- (c) the balance of those sums paid to the judgment creditor under subsection (11).

(13) On payment being made to the judgment creditor under subsection (11)—

- (a) the judgment creditor must credit the member of the transit police service concerned with the sums referred to in subsection (12) (a), as shown in the statement forwarded to the judgment creditor; and

*Police Department (Transit Police) 1989*

- (b) the judgment in respect of which the payment was made shall for all purposes be taken to be satisfied to the extent of those sums, as so shown.

(14) In this section, "judgment" includes a judgment against joint defendants.

**Bribes etc.**

34. (1) A member of the transit police service shall not take or solicit any bribe, pecuniary or otherwise, either directly or indirectly.

Maximum penalty: 20 penalty units or imprisonment for 2 years, or both.

(2) A person, whether or not a member of the transit police service, shall not—

- (a) give or offer, or promise to give, any bribe, recompense or reward to a member of the transit police service; or  
 (b) make any collusive agreement with a member of the transit police service,

for the purpose of inducing the member to neglect the member's duty, or to conceal or connive at any act whereby any provisions of this Act or the regulations may be evaded.

Maximum penalty: 20 penalty units or imprisonment for 2 years or both, in addition to any other punishment to which the person may be liable.

(3) Proceedings for an offence under this section may be commenced by information laid within 2 years after the time when the offence was allegedly committed.

**Uniforms etc.**

35. (1) A person who, not being a member of the transit police service—

- (a) has in his or her possession any arms, ammunition, article of clothing, accoutrements or appointments of the service; and  
 (b) does not satisfactorily account for such possession,

is guilty of an offence.

Maximum penalty: 2 penalty units.

(2) A person, not being a member of the transit police service, shall not—

- (a) without the permission of the Commissioner and otherwise than in the course of a stage play, a music hall or circus performance or a ball, wear the uniform, or any colourable imitation of the uniform, of a member of the transit police service; or  
 (b) for the purposes of or in connection with any business, occupation or employment, use the designation, rank or description that he or she previously held as a member of the service.

*Police Department (Transit Police) 1989*

---

Maximum penalty: 2 penalty units.

(3) A person, not being a member of the transit police service, shall not assume the name, designation or description of a member of the service or of any class of members of the service.

Maximum penalty: 2 penalty units or imprisonment for 6 months, or both.

(4) A penalty under this section is in addition to any other punishment to which the person may be liable.

(5) For the purposes of a prosecution under this section, a certificate by the Commissioner to the effect that a uniform described in the certificate is the uniform of a member of the transit police service is evidence of the matters certified.

(6) Section 17 (1) (c) of the Police Regulation Act 1899 does not operate to prevent a member of the transit police service from assuming or using, with the approval of the Commissioner of Police, any designation indicating that he or she is a member of the service.

**Proceedings for offences**

36. (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

(2) Nothing prevents proceedings for an offence under this Act or the regulations from being brought against a person who has ceased to be a member of the transit police service, but who was such a member when the offence was allegedly committed.

**Regulations**

37. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) the procedures to be adopted for promoting, and terminating the employment of, members of the transit police service; and
- (b) the procedures to be adopted consequent on the promotion of members of the service, including the taking or making of an oath or affirmation of office; and
- (c) the transfer of members of the service between positions; and
- (d) the hours of attendance of members of the service; and
- (e) the leave which may be granted to members of the service; and

*Police Department (Transit Police) 1989*

- (f) travelling and subsistence allowances for members of the service, allowances for the increased cost of living in distant parts of the State, and other allowances for members; and
- (g) the exercise of functions of suspended, sick or absent members of the service by other members, and the exercise by members of the functions attached to vacant positions.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Amendment of Government and Related Employees Appeal Tribunal Act 1980 No. 39**

38. The Government and Related Employees Appeal Tribunal Act 1980 is amended—

- (a) by inserting after paragraph (c) of the definition of “employee” in section 4 (1) the following paragraph:
  - (c1) a person who is a member of the transit police service within the meaning of section 4 of the Police Department (Transit Police) Act 1989;
- (b) by inserting in paragraph (e) of the definition of “employee” in section 4 (1) after the matter “(c)”, the matter “, (c1)”;
- (c) by inserting after paragraph (c) of the definition of “employer” in section 4 (1) the following paragraph:
  - (c1) in relation to an employee of the class referred to in paragraph (c1) of that definition—the Commissioner of Police;

**Amendment of Ombudsman Act 1974 No. 68—Schedule 1 (Excluded Conduct of Public Authorities)—**

39. The Ombudsman Act 1974 is amended by inserting at the end of Schedule 1 the following item:

- 21. Conduct of a public authority when acting as a member of the transit police service.

**Amendment of Transport Administration Act 1988 No. 109**

40. The Transport Administration Act 1988 is amended—

- (a) by omitting from the definition of “authorised officer” in section 98 (6) the words “Police Department” and by inserting instead the words “transit police service”;
- (b) by omitting from clause 2 (1) of Schedule 4 the words “Police Department” and by inserting instead the words “transit police service”.

*Police Department (Transit Police) 1989***Savings, transitional and other provisions**

41. Schedule 1 has effect.

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 41)

**Definition**

1. In this Schedule—

“transferred employee” means a person employed as a member of the transit police service by virtue of this Act.

**Regulations**

2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

(4) Any such provision shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

**Transferred employee seeking appointment to Public Service**

3. For the purposes of section 31 (Eligibility for appointment to Public Service), service by a transferred employee before the commencement of this clause on the staff of the State Rail Authority shall be regarded as service as a member of the transit police service.

**Conditions of employment**

4. A transferred employee shall (until other provision is duly made under Part 4) be employed in accordance with the awards, industrial agreements and determinations that would have applied to the transferred employee if the transferred employee—

- (a) had not become employed as a member of the transit police service by virtue of this Act; and
- (b) were still on the staff of the State Rail Authority.

**Preservation of rights of transferred employee**

5. (1) This clause applies where a transferred employee was, immediately before the commencement of section 5—

- (a) a contributor to a superannuation scheme; or
- (b) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

*Police Department (Transit Police) 1989*


---

 SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) A transferred employee referred to in subclause (1)—

- (a) shall retain any rights accrued or accruing to him or her as such a contributor or person; and
- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before the commencement of this clause; and
- (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such a contributor or person during his or her service as a member of the transit police service.

(3) Service as a member of the transit police service shall be regarded as service as an officer or employee for the purposes of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred.

(4) The transferred employee shall be regarded as an officer or employee, and the Commissioner shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If the transferred employee would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she is not so entitled on becoming (whether on the commencement of this clause or at any later time while being a member of the transit police service) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Commissioner in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to the transferred employee (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, because of resignation, to be an officer or employee for the purposes of the scheme.

(7) The transferred employee is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause—

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

#### **Leave entitlements**

6. Transferred employees are entitled to continue to accrue any sick, recreational or extended leave not taken immediately before the commencement of section 5.

#### **Right of transfer back to SRA**

7. (1) Not later than 3 years after the commencement of section 5, a transferred employee may apply, as if the transferred employee were a member of the staff of the State Rail Authority, for a position on that staff.

*Police Department (Transit Police) 1989*

---

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

(2) A transferred employee who applies for such a position, or is appointed or employed as a member of that staff, shall be taken for all purposes to be a member of that staff in relation to the application (including any requirements relating to eligibility for appointment to the position), appointment or employment.

(3) Service as a member of the transit police service by a transferred employee who is appointed to such a position shall be regarded as service on the staff of the State Rail Authority.

**Pending appeals**

8. If an appeal concerning a transferred employee is pending to a Transport Appeal Board on the commencement of section 5, the appeal may continue to be heard and disposed of and the decision on the appeal shall, as far as practicable, be given effect to by the Commissioner.

---

[*Minister's second reading speech made in—  
Legislative Council on 19 April 1989  
Legislative Assembly on 4 May 1989*]





## POLICE DEPARTMENT (TRANSIT POLICE) BILL 1989

NEW SOUTH WALES



### EXPLANATORY NOTE

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

During January 1988 the Commissioner of Police was given administrative responsibility for certain officers of the Transport Investigation Branch of the State Rail Authority. The objects of this Bill are—

- (a) to make formal provision for the transfer of the positions held by those officers from the State Rail Authority; and
- (b) to provide for the employment of those officers as members of the transit police service and for the conditions and other matters relating to their employment.

---

#### PART 1—PRELIMINARY

**Clause 1** specifies the short title of the proposed Act.

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

**Clause 3** contains a detailed statement of the principal objects of the proposed Act.

**Clause 4** defines a number of expressions used in the proposed Act.

#### PART 2—ORGANISATION OF TRANSIT POLICE SERVICE

**Clause 5** provides for the formal transfer of certain positions on the staff of the State Rail Authority and for the officers of the Transport Investigation Branch in those positions to be employed as members of the transit police service under the proposed Act.

**Clause 6** states—

- (a) that the transit police service consists of the persons employed under the proposed Act; and

*Police Department (Transit Police) 1989*

---

(b) that the Public Sector Management Act 1988 does not apply to members of the service,

and specifies the functions of the service.

**Clause 7** provides for different classifications of the service and the creation of positions in a classification.

**Clause 8** enables the Minister to determine the classes or descriptions, and the number, of members of the service who may be employed in a classification.

**Clause 9** provides for the Commissioner of Police ("the Commissioner") to determine the duties of members of the service and includes a provision to protect members carrying out their duties in good faith from certain forms of liability. The members have been appointed as special constables under the Police Offences Act 1901 and will also exercise functions prescribed by the regulations.

### **PART 3—EMPLOYMENT**

**Clause 10** empowers the Commissioner to promote or transfer a member of the service ("a member") to a vacant position in a classification of the service. An appointment must be made on merit. No new appointments may be made to the service.

**Clause 11** sets out the citizenship or residency requirements which a member of the service must satisfy.

**Clause 12** sets out the circumstances in which a member will be taken to have vacated his or her position.

**Clause 13** provides that members of the service may retire at 60 years of age and must retire at 65 years of age (with certain exceptions).

**Clause 14** enables the Commissioner to retire members of the service who are likely to be permanently unfit to discharge or incapable of discharging their duties.

**Clause 15** enables the Commissioner to transfer members of the service from one position to another position of equal remuneration.

**Clause 16** enables the Commissioner to transfer a member from one position to another, or dispense with his or her services, in the interests of the efficient, effective and economical management of the functions of the service.

**Clause 17** enables the Commissioner to transfer a member from one position to another if it appears the member is in receipt of excessive remuneration for the work performed by the member.

**Clause 18** sets out the circumstances in which a member may be dismissed for refusing a transfer.

**Clause 19** empowers the Commissioner to give a member directions relating to other employment undertaken by the member.

### **PART 4—CONDITIONS OF EMPLOYMENT**

**Clause 20** gives the Public Employment Industrial Relations Authority ("the Industrial Authority") power to fix the conditions of employment of members of the service and provides that regulations may also be made in relation to those conditions.

**Clause 21** states that the Industrial Authority is to determine the remuneration of members.

*Police Department (Transit Police) 1989*

---

**Clause 22** provides that the Industrial Authority is to be taken to be the employer of members for certain industrial purposes and may make agreements with bodies representing members.

**Clause 23** preserves the Crown's right to dispense with the services of members who are in the service of the Crown.

**Clause 24** provides that (except as may be provided by the proposed or any other Act) members are not entitled to compensation if their services are dispensed with.

**PART 5—DISCIPLINE**

**Clause 25** provides for the Police Regulation (Allegations of Misconduct) Act 1978 to apply in relation to investigation of complaints against members of the service in the same way that it applies to members of the Police Force.

**Clause 26** lists what constitutes a breach of discipline by a member.

**Clause 27** provides the machinery for dealing with a breach of discipline by a member.

**Clause 28** sets out the courses which the Commissioner may take if a member is found to have committed, or admits to having committed, a breach of discipline.

**Clause 29** provides that the Commissioner may deal with a member who is convicted of an offence in the same way as the member could be dealt with under clause 28.

**Clause 30** gives the Commissioner power to suspend, and to lift the suspension of, a member from duty in certain situations. The remuneration of a suspended member may be withheld during the suspension and may be forfeited if the member has committed a breach of discipline or has been convicted of an offence.

**PART 6—MISCELLANEOUS**

**Clause 31** provides that a member of the service, with at least 5 years' satisfactory service, may apply for appointment to a position in the Public Service. The person's application and appointment is to be treated as that of an officer of the Public Service. There is to be no right of appeal in respect of the filling of the position applied for.

**Clause 32** enables the Commissioner to delegate the Commissioner's functions under the proposed Act.

**Clause 33** sets out the procedure to be followed in the attachment of the remuneration of a member by way of satisfaction of a judgment debt entered against the member.

**Clause 34** makes it an offence for a member to take or solicit any bribe and for any person to bribe a member or make a collusive agreement with a member to induce the member to neglect his or her duty or to evade a provision of the Act or the regulations.

**Clause 35** makes it an offence to impersonate a member.

**Clause 36** provides for the manner in which proceedings for an offence against the proposed Act or regulations are to be dealt with.

**Clause 37** enables the making of regulations.

**Clause 38** amends the Government and Related Employees Appeal Tribunal Act 1980—

- (a) to make express mention of a member as an "employee" under that Act so as to ensure that members have a right of appeal in relation to disciplinary and promotional matters; and

*Police Department (Transit Police) 1989*

---

(b) to provide that the Commissioner of Police is to be regarded as the employer of the members for the purposes of that Act.

**Clause 39** excludes the conduct of members, when exercising functions as such, from the operation of the Ombudsman Act 1974. The provision complements clause 25 which provides for investigation of complaints against members under the Police Regulation (Allegations of Misconduct) Act 1978.

**Clause 40** makes consequential amendments to the Transport Administration Act 1988.

**Clause 41** gives effect to the Schedule of savings, transitional and other provisions.

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

**Clause 1** contains a definition.

**Clause 2** provides for the making of regulations of a savings or transitional nature.

**Clause 3** provides for the past service of a member on the staff of the State Rail Authority to be treated as service as a member of the service if the member seeks appointment to the Public Service.

**Clause 4** sets out the conditions of employment to apply to the persons affected by the proposed Act.

**Clause 5** preserves the superannuation rights of persons affected by the proposed Act.

**Clause 6** preserves the leave entitlements of persons affected by the proposed Act.

**Clause 7** enables persons affected by the proposed Act to apply, within 3 years after being formally transferred, for a position on the staff of the State Rail Authority as if they were still on the staff. A person may so apply only if qualified for the position.

**Clause 8** makes provision for pending appeals to the Transport Appeal Board.

---

# POLICE DEPARTMENT (TRANSIT POLICE) BILL 1989

## NEW SOUTH WALES



### TABLE OF PROVISIONS

#### PART 1—PRELIMINARY

1. Short title
2. Commencement
3. Objects
4. Definitions

#### PART 2—ORGANISATION OF TRANSIT POLICE SERVICE

5. Formal transfer of SRA staff
6. Transit police service
7. Classifications and positions
8. Maximum number of members
9. Duties of members

#### PART 3—EMPLOYMENT

10. Employment of members
11. Requirements as to citizenship etc.
12. Vacation of position
13. Retirement of members
14. Incapable member may be retired
15. Transfer of members
16. Excess staff
17. Excessive remuneration
18. Refusal of transfer
19. Other employment

#### PART 4—CONDITIONS OF EMPLOYMENT

20. Conditions of employment
21. Determination of remuneration
22. Industrial Authority to be employer for certain purposes
23. Right of Crown to dispense with services
24. No compensation

#### PART 5—DISCIPLINE

25. Investigation of complaints
26. Breaches of discipline
27. Procedure for dealing with breaches of discipline
28. Punishment for breaches of discipline
29. Punishment where member guilty of offence
30. Suspension of members

*Police Department (Transit Police) 1989*

---

PART 6—MISCELLANEOUS

31. Eligibility for appointment to Public Service
32. Delegation by Commissioner
33. Attachment of remuneration
34. Bribes etc.
35. Uniforms etc.
36. Proceedings for offences
37. Regulations
38. Amendment of Government and Related Employees Appeal Tribunal Act 1980 No. 39
39. Amendment of Ombudsman Act 1974 No. 68—Schedule 1 (Excluded Conduct of Public Authorities)
40. Amendment of Transport Administration Act 1988 No. 109
41. Savings, transitional and other provisions

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

---

# POLICE DEPARTMENT (TRANSIT POLICE) BILL 1989

NEW SOUTH WALES



No. , 1989

---

---

## A BILL FOR

An Act relating to the employment of transit police and the regulation of the conditions of their employment; and for other purposes.

---

---

*Police Department (Transit Police) 1989*

---

**The Legislature of New South Wales enacts:**

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the Police Department (Transit Police) Act  
5 1989.

**Commencement**

2. This Act commences on a day or days to be appointed by proclamation.

**Objects**

- 10 3. The principal objects of this Act are—
- (a) to formalise the transfer of responsibility for certain officers of the Transport Investigation Branch of the State Rail Authority to the Commissioner; and
  - 15 (b) to provide for the employment in the service of the Crown of the officers so transferred as members of an organisation (“the transit police service”) functioning in the Police Department; and
  - (c) to provide for the Commissioner to be regarded as their employer in all but industrial matters; and
  - 20 (d) to ensure that the Commissioner may discipline them in the same way as they could be disciplined if they were members of the Police Force; and
  - (e) to make provision to preserve certain entitlements of the transferred officers.

**Definitions**

- 25 4. (1) In this Act—
- “classification” means a classification of the transit police service referred to in section 7;
  - “Commissioner” means the Commissioner of Police;
  - “Industrial Authority” means the Public Employment Industrial Relations  
30 Authority constituted by the Public Sector Management Act 1988;
  - “remuneration” includes salary and wages;
  - “transit police service” means the transit police service, as referred to in section 6 (1).
- (2) In this Act—
- 35 (a) a reference to a function includes a reference to a power, authority and duty; and
  - (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.



**PART 2—ORGANISATION OF TRANSIT POLICE SERVICE****Formal transfer of SRA staff**

- 5       5. (1) On the commencement of this subsection—
- (a) the positions specified in an order made under subsection (2) shall be transferred to the transit police service; and
- (b) the persons then employed in those positions shall be taken to be employed as members of the transit police service under this Act.
- 10       (2) The Governor may, on the recommendation of the Commissioner, by order published in the Gazette, specify the positions in the Transport Investigation Branch of the State Rail Authority to be transferred under this section.
- (3) The order may nominate the classification of a transferred position.

**Transit police service**

- 15       6. (1) The transit police service consists of the persons employed as transit police under this Act.
- (2) The principal function of the transit police service is to promote security, safety and order on public transport in the State, including railways and trains.
- 20       (3) The Public Sector Management Act 1988 does not apply to or in respect of the appointment or employment of a member of the transit police service and a member of the transit police service, is not, as such a member, subject to that Act.
- (4) A member of the transit police service is not a member of the Police Force.

**25 Classifications and positions**

7. (1) The classifications of the transit police service are—
- (a) Chief Transit Police Officer; and
- (b) Senior Transit Police Officer; and
- 30       (c) Patrol Officer—1st Class; and
- (d) Patrol Officer,
- and such other classifications as the Minister may from time to time determine.
- (2) The Commissioner may create positions in any classification.

**Maximum number of members**

- 35       8. The Minister may from time to time make determinations relating to either or both of the following:

B1

*Police Department (Transit Police) 1989*

---

- (a) the classes or descriptions of members of the transit police service who may be employed in any classification;
- (b) the maximum number of members of the transit police service who may be employed in any classification.

**5 Duties of members**

**9. (1)** The duties of members of the transit police service shall be as determined by the Commissioner or as specified by the regulations.

**(2)** In the event of an inconsistency, the regulations prevail.

**(3)** A member of the transit police service is not liable for any injury or damage caused by any act or omission of the member in the performance by the member, in good faith, of a duty conferred or imposed on the member by or under this Act.

**PART 3—EMPLOYMENT**

**Employment of members**

**15 10. (1)** If a vacancy exists in a position in the transit police service, the Commissioner may, by way of transfer or promotion, appoint a member of the transit police service to be employed in the service of the Crown in the position.

**20 (2)** The Commissioner must, from the applicants for a vacant position, select the applicant who has, in the opinion of the Commissioner, the greatest merit.

**(3)** In determining the merit of applicants, the Commissioner shall have regard to—

- 25 (a)** the nature of the duties of the position; and
- (b)** the abilities, qualifications, experience, standard of work performance and personal qualities of the applicants that are relevant to the performance of those duties.

**(4)** A decision to make an appointment under this section shall not be acted on (except by way of temporary appointment)—

- 30 (a)** until the expiration of the time for lodging a notice of an appeal under the Government and Related Employees Appeal Tribunal Act 1980 against the decision; or
- 35 (b)** if such a notice of appeal is lodged within that time, until the Government and Related Employees Appeal Tribunal has determined the appeal or the appeal has been withdrawn.

**Requirements as to citizenship etc.**

**11. (1)** A person is not eligible to be appointed to a position as a member of the transit police service unless the person is—

*Police Department (Transit Police) 1989*

---

- (a) an Australian citizen; or
  - (b) a person resident in Australia whose continued presence in Australia is not subject to any limitation as to time imposed by or in accordance with law,
- 5 and, if so required by or under the regulations, the person produces in accordance with the regulations such evidence with respect to any matters referred to in this section as is prescribed.

(2) A member of the transit police service who is not an Australian citizen and who ceases to satisfy or does not satisfy the requirements of  
 10 subsection (1) (b) is not eligible to continue in employment as a member of the transit police service and shall be dismissed as such a member by the Commissioner.

**Vacation of position**

12. (1) A member of the transit police service shall be taken to have  
 15 vacated his or her position if—

- (a) the member dies; or
- (b) the member resigns the position by instrument in writing addressed to the Commissioner and the Commissioner accepts the resignation; or
- 20 (c) the member retires or is retired; or
- (d) the member is dismissed under this Act; or
- (e) the member's services are dispensed with as referred to in this Act.

(2) When a member of the transit police service is dismissed from or ceases to hold his or her position, all powers and authorities vested in the  
 25 person shall immediately cease.

(3) Any member of the transit police service so dismissed or ceasing to hold his or her position shall immediately deliver all things—

- (a) supplied to the person as such a member; or
  - (b) in the person's custody by virtue of being such a member,
- 30 to some person appointed (whether generally or specially) by the Commissioner for the purpose.

Maximum penalty: 10 penalty units or imprisonment for 3 months.

**Retirement of members**

13. (1) A member of the transit police service—
- 35 (a) may retire as a member of the service on reaching the age of 60 years; or
  - (b) may continue as a member of the service after reaching that age, but—
    - (i) may retire as a member; or

*Police Department (Transit Police) 1989*

---

(ii) the Commissioner may cause the member to be retired as a member,

at any time after the member has reached that age and before the member reaches the age of 65 years.

5 (2) A member of the transit police service who reaches the age of 65 years shall, subject to subsection (3), then retire or be retired by the Commissioner.

(3) If—

10 (a) the Commissioner is of the opinion that it is in the public interest that a member of the transit police service who is of or above the age of 65 years should continue to perform the duties of his or her position; and

(b) the member agrees to continue to perform those duties, the member's retirement may be deferred for a period not exceeding 12 15 months and thereafter, so long as the member agrees to continue to perform those duties, from time to time for such periods, not exceeding 12 months, as the Commissioner may fix.

(4) Despite any such deferment, the Commissioner may cause the member of the transit police service to be retired at any time.

20 **Incapable member may be retired**

14. If—

(a) a member of the transit police service is found unfit to discharge or incapable of discharging the duties of his or her position; and

25 (b) the unfitness or incapacity appears likely to be of a permanent character, and has not arisen from actual misconduct on his or her part, or from causes within his or her control, the Commissioner may cause the member to be retired.

**Transfer of members**

30 15. (1) The Commissioner, if of the opinion that it would be in the interests of the administration of this Act to do so, may transfer a member of the transit police service from one position as a member of the service to another such position equal in remuneration to that of the firstmentioned position.

35 (2) Such a transfer may be made only if the member has the necessary qualifications for the other position.

**Excess staff**

40 16. If the Commissioner is satisfied that a number of persons (referred to in this section as the "excess persons") are employed as members of the transit police service in excess of the number that appears to be necessary for the efficient, effective and economical management of the functions of the service, then—

*Police Department (Transit Police) 1989*

- (a) subject to paragraph (b), the Commissioner shall take such steps as are practicable to transfer the excess persons under section 15; and
- (b) if any such person cannot be usefully employed in any other position as a member of the service, the person's services shall be dispensed with by the Commissioner.

**Excessive remuneration**

17. (1) If the Commissioner is satisfied that a member of the transit police service is in receipt of greater remuneration than the maximum fairly appropriate to the work performed by the member, the Commissioner shall take such steps as are practicable to assign the member work of a class appropriate to the remuneration.

(2) If the member cannot be assigned sufficient work of the kind referred to in subsection (1) or is unfit for or incapable of performing work appropriate to the remuneration—

- (a) subject to paragraph (b), the Commissioner shall take such steps as are practicable to transfer the member under section 15; and
- (b) if such a transfer cannot be made or the member is unfit for or incapable of performing the work attached to another position of equal remuneration—
- (i) the Industrial Authority shall reduce the employee's remuneration to the maximum determined by the Industrial Authority to be appropriate for the work performed by the member; and
- (ii) the Commissioner may take such steps as are practicable to secure the transfer of the employee to a position as a member of the transit police service at that salary.

(3) If a reduction of remuneration of a member of the transit police service under this section is certified by the Industrial Authority to have been made on the ground only that appropriate work or an appropriate position is not available, the member—

- (a) remains eligible for promotion as if the member's remuneration had not been reduced; and
- (b) is entitled to employment in the class of work to which the member's previous remuneration was appropriate, or transfer to a position to which that class of work is attached, as soon as the appropriate work or an appropriate position becomes available, in preference to any other member of the service whose salary has not been reduced.

**Refusal of transfer**

18. (1) A member of the transit police service who refuses a transfer from one position to another under this Part may be dismissed by the Commissioner.

*Police Department (Transit Police) 1989*

---

(2) If the Commissioner is satisfied that the member of the transit police service has a valid and sufficient reason for refusing the transfer, the member may be allowed to decline the transfer without prejudice to any rights that the member would, had he or she not declined the transfer, have had to any future promotion or appointment.

**Other employment**

19. (1) Except with the permission of the Commissioner, a member of the transit police service shall not engage in any trade, business or profession or in any other remunerative employment.

10 (2) If—

(a) a member of the transit police service is the holder of any office or position; or

(b) is engaged in any employment whatever,

15 otherwise than in connection with the duties of his or her position as a member of the service, the member shall at once notify the fact to the Commissioner, who may require the member to resign the office or position or abstain from engaging in the employment.

(3) The Commissioner may withdraw a permission under subsection (1) at any time.

20 **PART 4—CONDITIONS OF EMPLOYMENT**

**Conditions of employment**

20. (1) The Industrial Authority may, where the conditions of employment of any member of the transit police service are not fixed in accordance with the provisions of any other Act or law, fix the conditions of employment of the member.

(2) The regulations may make provision for or with respect to the conditions of employment of members of the transit police service.

(3) The regulations made for the purposes of subsection (2)—

30 (a) shall have effect subject to any relevant award or industrial agreement; and

(b) shall have effect despite the provisions of subsection (1).

(4) A reference in this section to conditions of employment does not include a reference to the rates of remuneration payable to a member of the transit police service.

35 (5) The references in section 20A (1) of the Industrial Arbitration Act 1940 to the dismissal or proposed dismissal of an employee are, in relation to a person employed under this Act, references to the termination or proposed termination of the employment of the person—

*Police Department (Transit Police) 1989*

---

- 5 (a) under section 28 (Punishment for breaches of discipline) or 29 (Punishment where member guilty of offence), including the termination or proposed termination of the employment of the person under section 28 or 29 pursuant to a direction that the person resign or be allowed to resign; or
- (b) as referred to in section 23 (Right of Crown to dispense with services).

**Determination of remuneration**

10 21. (1) Except in so far as provision is otherwise made by law, the remuneration of members of the transit police service shall be as determined from time to time by the Industrial Authority.

(2) A member of the transit police service may sue for and recover the amount of the remuneration that is the subject of such a determination and payable to the member.

15 **Industrial Authority to be employer for certain purposes**

20 22. (1) The Industrial Authority shall, for the purposes of any proceedings relating to a member of the transit police service held before a competent tribunal having power to deal with industrial matters, be taken to be the employer of the member, except for the purposes of any such proceedings relating to—

- (a) the dismissal, suspension or reinstatement of the member; or  
 (b) the powers of the Commissioner with respect to the discipline, promotion or transfer of the member.

25 (2) The Industrial Authority may enter into an agreement with any association or organisation representing any group or class of members of the transit police service as to any industrial matters.

30 (3) Such an agreement shall bind all members of the transit police service in the class or group affected by the agreement and no such member, whether a member of the association or organisation with which the agreement was entered into or not, shall have any right of appeal against the terms of the agreement.

(4) Nothing in this section authorises—

- 35 (a) the Industrial Authority to act as an employer; or  
 (b) any function to be exercised by or in relation to the Industrial Authority,

otherwise than for the purposes of and in accordance with this section.

**Right of Crown to dispense with services**

40 23. Nothing in this Act shall be construed or held to abrogate or restrict the right or power of the Crown, as existing apart from this Act, to dispense with the services of any person employed in the service of the Crown as a member of the transit police service.

*Police Department (Transit Police) 1989***No compensation**

24. Except as provided in this or any other Act, a member of the transit police service is not entitled to any compensation as a result of the member's services being dispensed with or the member's remuneration being reduced.

5 **PART 5—DISCIPLINE****Investigation of complaints**

25. The Police Regulation (Allegations of Misconduct) Act 1978 applies to and in respect of a member of the transit police service as if—

- 10 (a) references in that Act to a member of the Police Force, were references to a member of the transit police service; and
- (b) references in that Act to the Police Regulation Act 1899 or the rules made under that Act, were references to this Act and the regulations made under it; and
- 15 (c) references in that Act to a departmental charge, were references to a departmental charge preferred against a member of the transit police service in accordance with this Act or the regulations.

**Breaches of discipline**

26. A member of the transit police service who—

- 20 (a) commits any breach of this Act or the regulations; or
- (b) is disobedient; or
- (c) neglects or omits to discharge, or is incompetent in the discharge of, his or her duties; or
- (d) uses intoxicating beverages or drugs to excess while on duty or in uniform; or
- 25 (e) is disrespectful to any person in authority; or
- (f) engages in insolent or indecorous behaviour; or
- (g) uses any words or engages in an action subversive of discipline or calculated to impair the efficiency of, or bring discredit on, the service,

30 is guilty of a breach of discipline.

**Procedure for dealing with breaches of discipline**

27. (1) If the Commissioner considers that action should be taken against a member of the transit police service alleged to have committed a breach of discipline, the Commissioner may—

- 35 (a) direct the preferment of a departmental charge against the member; or
- (b) if an offence appears to have been committed, direct the institution of court proceedings against the member for the offence.



*Police Department (Transit Police) 1989*

(2) Departmental charges other than those heard and determined by the Police Tribunal under section 41 (Hearing of disciplinary charges) of the Police Regulation (Allegations of Misconduct) Act 1978 shall be dealt with by the Commissioner.

5 (3) Subject to this Act, the regulations may—

(a) make provision for or with respect to—

- (i) the manner of dealing with alleged breaches of discipline; and
- 10 (ii) the institution and conduct of proceedings before the Police Tribunal relating to departmental charges preferred against a member of the transit police service; and
- (iii) the implementation of determinations and recommendations of the Police Tribunal in relation to charges against members of the service; and

15 (b) prescribe all matters that are necessary or convenient to be prescribed for carrying out or giving effect to this Part.

**Punishment for breaches of discipline**

20 28. (1) If an alleged breach of discipline is dealt with by the Commissioner in accordance with the regulations and the member of the transit police service charged is found to have committed the breach or admits to the person or persons dealing with the breach that he or she committed the breach, the Commissioner—

(a) may decide to impose on the member any one or more of the following punishments:

- 25 (i) a caution;
- (ii) a reprimand;
- (iii) a fine;
- (iv) a reduction in remuneration;
- (v) a reduction to a lower classification or position as a member of the transit police service; or

30 (b) may decide to dismiss the member or to direct that the member resign, or be allowed to resign, within such period as may be specified in the direction.

35 (2) If the Commissioner, in the exercise of powers under this section, decides to direct that a member of the transit police service resign, or be allowed to resign, within a period specified in the direction, and the member does not resign within that period, the Commissioner may decide to dismiss the member.

40 (3) Subject to Part 3 of the Government and Related Employees Appeal Tribunal Act 1980, a decision of the Commissioner under this section may be given effect to at any time.

*Police Department (Transit Police) 1989*

(4) A fine imposed by the Commissioner on a member of the transit police service may be recovered—

- (a) in any court of competent jurisdiction as a debt due to the Crown; or
- 5 (b) from the remuneration of the member, in accordance with the regulations.

**Punishment where member guilty of offence**

29. (1) This section applies where a member of the transit police service is—

- 10 (a) convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for a term of 12 months or more; or
- (b) convicted elsewhere of an offence that, if committed in New South Wales, would be an offence so punishable; or
- 15 (c) convicted of an offence in proceedings instituted under section 27 (1) (b).

(2) The Commissioner may impose on the member of the transit police service any one or more of the punishments that may be imposed under section 28 as if the member had, in accordance with that section, been dealt  
20 with for a breach of discipline and were liable to those punishments.

**Suspension of members**

30. (1) If a member of the transit police service—

- (a) is, in accordance with the regulations, charged with a breach of discipline; or
- 25 (b) is charged with having committed an offence referred to in section 27 (1) (b); or
- (c) is charged with having committed an offence referred to in section 29 (1),

the Commissioner may suspend the member from duty until the charge has  
30 been dealt with.

(2) The Commissioner may lift the suspension of a member of the transit police service at any time.

(3) Any remuneration payable to a suspended member of the transit police service shall be withheld during the period of suspension, unless the  
35 Commissioner otherwise directs.

(4) Any such remuneration shall, unless the Commissioner otherwise directs, be forfeited if—

- (a) the member is found to have committed the breach of discipline or admits to having committed the breach of discipline; or

*Police Department (Transit Police) 1989*

(b) the member is convicted of the offence, unless it was due before the suspension or was paid pursuant to a direction under subsection (3).

(5) This section has effect subject to the Government and Related Employees Appeal Tribunal Act 1980.

**PART 6—MISCELLANEOUS****Eligibility for appointment to Public Service**

31. (1) A member of the transit police service with at least 5 years' satisfactory service as such may apply for a position in the Public Service as if the member were a public servant.

(2) A member of the transit police service who applies for such a position, or is appointed or employed as a public servant, shall be taken (for the purposes of the Public Sector Management Act 1988, the Government and Related Employees Appeal Tribunal Act 1980 and the Industrial Arbitration Act 1940 and for any other purposes) to be an officer of the Public Service in relation to the application, appointment or employment.

(3) There is no right of appeal under the Government and Related Employees Appeal Tribunal Act 1980—

- (a) for a person against the filling of a position in the Public Service by a member of the transit police service; or
- (b) for a member of the transit police service against the filling of a position in the Public Service by another person.

(4) For the purposes of this section, service is not satisfactory if it is of a kind prescribed by the regulations for the purposes of this section.

**25 Delegation by Commissioner**

32. (1) The Commissioner may delegate to—

- (a) a member of the Police Force; or
  - (b) a public servant employed in the Police Department; or
  - (c) a member of the transit police service,
- the exercise of any of the Commissioner's functions under this Act, other than this power of delegation.

(2) If—

- (a) a function of the Commissioner is delegated under subsection (1); and
- (b) the instrument of delegation authorises the sub-delegation of the function,

then, subject to any conditions to which the delegation is subject, the delegate may sub-delegate the function to a person described in subsection (1).

*Police Department (Transit Police) 1989***Attachment of remuneration**

33. (1) If judgment has been entered in any court against any member of the transit police service for the payment of a sum of money, the person in whose favour the judgment is entered may serve on the Commissioner—

- 5 (a) a copy of the judgment certified under the hand of the registrar or other proper officer of the court in which the judgment is entered; and  
 (b) a statutory declaration stating that the judgment has not been  
 10 satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2) As soon as practicable after the service on the Commissioner of a copy of a judgment and a statutory declaration in accordance with this section, the Commissioner must—

- 15 (a) notify the judgment debtor in writing of the service of the copy of the judgment and statutory declaration; and  
 (b) require the judgment debtor—  
 (i) to state in writing within a time to be specified by the  
 Commissioner whether the judgment has been satisfied; and  
 20 (ii) if so, to furnish evidence that the judgment has been satisfied; and  
 (iii) if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If the member of the transit police service fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the  
 25 Commissioner may—

- (a) from time to time cause to be deducted from any money due to the member such sums as are, in the Commissioner's opinion, necessary to enable the judgment to be satisfied; and  
 30 (b) apply those sums in the manner provided by the following provisions of this section.

(4) A deduction must not be made under this section if it would reduce the amount to be received by the member to less than a sum per week equivalent to the amount ascertained in accordance with subsection (5).

(5) The amount which, by virtue of subsection (4), is to be ascertained  
 35 in accordance with this subsection must be ascertained by—

- (a) in the case of a male member of the transit police service—deducting \$8 from the basic wage for adult males; and  
 (b) in the case of a female member of the transit police service—deducting \$8 from the basic wage for adult females,  
 40 in force within the meaning of Part 5 of the Industrial Arbitration Act 1940 immediately before the deduction under subsection (3) is made.

*Police Department (Transit Police) 1989*

(6) If copies of more than one judgment and statutory declaration are served on the Commissioner in respect of a single judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served on the Commissioner.

5 (7) Any deductions made under subsection (3) from money due to a member of the transit police service shall, as between the Crown and the member, be regarded as a payment by the Crown to the member.

(8) If a person to whom a payment has been made under this section fails to notify the Commissioner immediately the judgment debt in respect of  
10 which the payment was made is satisfied, or is deemed to be satisfied, the person is liable, on conviction before a Local Court, to a penalty not exceeding 1 penalty unit.

(9) If any deduction made in accordance with subsection (3) from money due to a judgment debtor exceeds the amount due under the judgment  
15 against the judgment debtor—

- (a) the Commissioner must repay the amount of the excess; and
- (b) in default of payment, the judgment debtor may recover that amount from the Crown in any court of competent jurisdiction.

(10) This section does not apply in relation to any member of the transit  
20 police service who is an undischarged bankrupt.

(11) Out of the sums deducted under subsection (3), there shall be retained by the Commissioner, to be paid to the Treasurer for credit of the Consolidated Fund, an amount equal to 5 per cent (or such other amount as the Governor may, by order, notify in the Gazette) of those sums, and  
25 the balance of those sums shall be paid to the judgment creditor.

(12) If a payment is made to a judgment creditor under subsection (11), the Commissioner must forward to the judgment creditor a statement showing—

- 30 (a) the sums deducted under subsection (3) in respect of the judgment from money due to the member of the transit police service concerned; and
- (b) the amount retained by the Commissioner under subsection (11) out of those sums; and
- 35 (c) the balance of those sums paid to the judgment creditor under subsection (11).

(13) On payment being made to the judgment creditor under subsection (11)—

- 40 (a) the judgment creditor must credit the member of the transit police service concerned with the sums referred to in subsection (12) (a), as shown in the statement forwarded to the judgment creditor; and

*Police Department (Transit Police) 1989*

(b) the judgment in respect of which the payment was made shall for all purposes be taken to be satisfied to the extent of those sums, as so shown.

(14) In this section, "judgment" includes a judgment against joint  
5 defendants.

**Bribes etc.**

34. (1) A member of the transit police service shall not take or solicit any bribe, pecuniary or otherwise, either directly or indirectly.

Maximum penalty: 20 penalty units or imprisonment for 2 years, or both.

10 (2) A person, whether or not a member of the transit police service, shall not—

(a) give or offer, or promise to give, any bribe, recompense or reward to a member of the transit police service; or

15 (b) make any collusive agreement with a member of the transit police service,

for the purpose of inducing the member to neglect the member's duty, or to conceal or connive at any act whereby any provisions of this Act or the regulations may be evaded.

20 Maximum penalty: 20 penalty units or imprisonment for 2 years or both, in addition to any other punishment to which the person may be liable.

(3) Proceedings for an offence under this section may be commenced by information laid within 2 years after the time when the offence was allegedly committed.

**Uniforms etc.**

25 35. (1) A person who, not being a member of the transit police service—

(a) has in his or her possession any arms, ammunition, article of clothing, accoutrements or appointments of the service; and

(b) does not satisfactorily account for such possession,  
is guilty of an offence.

30 Maximum penalty: 2 penalty units.

(2) A person, not being a member of the transit police service, shall not—

35 (a) without the permission of the Commissioner and otherwise than in the course of a stage play, a music hall or circus performance or a ball, wear the uniform, or any colourable imitation of the uniform, of a member of the transit police service; or

(b) for the purposes of or in connection with any business, occupation or employment, use the designation, rank or description that he or she previously held as a member of the service.

*Police Department (Transit Police) 1989*

Maximum penalty: 2 penalty units.

(3) A person, not being a member of the transit police service, shall not assume the name, designation or description of a member of the service or of any class of members of the service.

5 Maximum penalty: 2 penalty units or imprisonment for 6 months, or both.

(4) A penalty under this section is in addition to any other punishment to which the person may be liable.

10 (5) For the purposes of a prosecution under this section, a certificate by the Commissioner to the effect that a uniform described in the certificate is the uniform of a member of the transit police service is evidence of the matters certified.

15 (6) Section 17 (1) (c) of the Police Regulation Act 1899 does not operate to prevent a member of the transit police service from assuming or using, with the approval of the Commissioner of Police, any designation indicating that he or she is a member of the service.

**Proceedings for offences**

36. (1) Proceedings for an offence against this Act or the regulations shall be dealt with summarily before a Local Court constituted by a  
20 Magistrate sitting alone.

(2) Nothing prevents proceedings for an offence under this Act or the regulations from being brought against a person who has ceased to be a member of the transit police service, but who was such a member when the offence was allegedly committed.

**25 Regulations**

37. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for  
30 or with respect to—

- (a) the procedures to be adopted for promoting, and terminating the employment of, members of the transit police service; and
- (b) the procedures to be adopted consequent on the promotion of members of the service, including the taking or making of an oath  
35 or affirmation of office; and
- (c) the transfer of members of the service between positions; and
- (d) the hours of attendance of members of the service; and
- (e) the leave which may be granted to members of the service; and

*Police Department (Transit Police) 1989*

---

(f) travelling and subsistence allowances for members of the service, allowances for the increased cost of living in distant parts of the State, and other allowances for members; and

5 (g) the exercise of functions of suspended, sick or absent members of the service by other members, and the exercise by members of the functions attached to vacant positions.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

**Amendment of Government and Related Employees Appeal Tribunal Act 1980**  
10 **No. 39**

38. The Government and Related Employees Appeal Tribunal Act 1980 is amended—

(a) by inserting after paragraph (c) of the definition of “employee” in section 4 (1) the following paragraph:

15 (c1) a person who is a member of the transit police service within the meaning of section 4 of the Police Department (Transit Police) Act 1989;

(b) by inserting in paragraph (e) of the definition of “employee” in section 4 (1) after the matter “(c)”, the matter “, (c1)”;

20 (c) by inserting after paragraph (c) of the definition of “employer” in section 4 (1) the following paragraph:

(c1) in relation to an employee of the class referred to in paragraph (c1) of that definition—the Commissioner of Police;

**Amendment of Ombudsman Act 1974 No. 68—Schedule 1 (Excluded Conduct**  
25 **of Public Authorities)—**

39. The Ombudsman Act 1974 is amended by inserting at the end of Schedule 1 the following item:

21. Conduct of a public authority when acting as a member of the transit police service.

30 **Amendment of Transport Administration Act 1988 No. 109**

40. The Transport Administration Act 1988 is amended—

(a) by omitting from the definition of “authorised officer” in section 98 (6) the words “Police Department” and by inserting instead the words “transit police service”;

35 (b) by omitting from clause 2 (1) of Schedule 4 the words “Police Department” and by inserting instead the words “transit police service”.



*Police Department (Transit Police) 1989***Savings, transitional and other provisions**

41. Schedule 1 has effect.

**SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS**

(Sec. 41)

**5 Definition**

1. In this Schedule—

“transferred employee” means a person employed as a member of the transit police service by virtue of this Act.

**Regulations**

10 2. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.

15 (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

(a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

20 (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

(4) Any such provision shall, if the regulations so provide, have effect notwithstanding any other clause of this Schedule.

**Transferred employee seeking appointment to Public Service**

25 3. For the purposes of section 31 (Eligibility for appointment to Public Service), service by a transferred employee before the commencement of this clause on the staff of the State Rail Authority shall be regarded as service as a member of the transit police service.

**Conditions of employment**

30 4. A transferred employee shall (until other provision is duly made under Part 4) be employed in accordance with the awards, industrial agreements and determinations that would have applied to the transferred employee if the transferred employee—

(a) had not become employed as a member of the transit police service by virtue of this Act; and

35 (b) were still on the staff of the State Rail Authority.

**Preservation of rights of transferred employee**

5. (1) This clause applies where a transferred employee was, immediately before the commencement of section 5—

(a) a contributor to a superannuation scheme; or

40 (b) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee.

*Police Department (Transit Police) 1989*


---

 SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (2) A transferred employee referred to in subclause (1)—
- (a) shall retain any rights accrued or accruing to him or her as such a contributor or person; and
  - (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before the commencement of this clause; and
  - (c) is entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such a contributor or person during his or her service as a member of the transit police service.

- (3) Service as a member of the transit police service shall be regarded as service as an officer or employee for the purposes of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred.

- (4) The transferred employee shall be regarded as an officer or employee, and the Commissioner shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If the transferred employee would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under the scheme—

- (a) he or she is not so entitled on becoming (whether on the commencement of this clause or at any later time while being a member of the transit police service) a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Commissioner in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to the transferred employee (on his or her ceasing to be a contributor to a superannuation scheme) of such amount as would have been payable to him or her if he or she had ceased, because of resignation, to be an officer or employee for the purposes of the scheme.

- (7) The transferred employee is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

(8) In this clause—

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

#### **Leave entitlements**

6. Transferred employees are entitled to continue to accrue any sick, recreational or extended leave not taken immediately before the commencement of section 5.

#### **Right of transfer back to SRA**

7. (1) Not later than 3 years after the commencement of section 5, a transferred employee may apply, as if the transferred employee were a member of the staff of the State Rail Authority, for a position on that staff.

*Police Department (Transit Police) 1989*

---

SCHEDULE 1—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—  
*continued*

- (2) A transferred employee who applies for such a position, or is appointed or employed as a member of that staff, shall be taken for all purposes to be a member of that staff in relation to the application (including any requirements relating to eligibility for appointment to the position), appointment or employment.
- 5 (3) Service as a member of the transit police service by a transferred employee who is appointed to such a position shall be regarded as service on the staff of the State Rail Authority.

**Pending appeals**

- 10 8. If an appeal concerning a transferred employee is pending to a Transport Appeal Board on the commencement of section 5, the appeal may continue to be heard and disposed of and the decision on the appeal shall, as far as practicable, be given effect to by the Commissioner.
-

