

FIRST PRINT

**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the Police Service Act 1990 to provide for the introduction of volunteer policing. Persons to be engaged in this activity are to be known as police volunteers (and collectively known as the volunteer police).

The introduction of volunteer policing is to be on a trial basis, for which reason the proposed Act contains a "sunset clause" that will repeal the substantive amendments on 31 December 1994 unless specified measures are taken to prevent it.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on a proclaimed day.

Clause 3 is a formal provision that gives effect to the Schedule of amendments to the Police Service Act 1990.

Clause 4 is a formal provision that gives effect to the Schedule of amendments to other Acts.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990

Status of volunteer police as part of Police Service

Schedule 1 (2) amends section 5 to provide for inclusion of the volunteer police in the Police Service of New South Wales. As a consequence, provisions of the Police Service Act 1990 that apply to the Service in general will apply to the volunteer police, except where their application has been specifically excluded. Police volunteers:

- share in the mission and general functions of the Service in the provision of police services for the State (section 6); and
- are to be guided by the same values as persons in other branches of the Service (section 7); and

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- are subject to general management and control by the Commissioner of Police (section 8); and
- are required to co-operate with the Police Board (section 22); and
- must be Australian citizens or permanent residents to qualify for appointment (section 94); and
- are protected from lawsuits in respect of injury or damage caused by them in the exercise of their duties (section 112—but see also proposed section 91E, inserted by Schedule 1 (7), which makes the Crown liable for their torts).

Provisions of the Police Service Act 1990 (and of other Acts) that apply specifically to police officers do not, however, apply to the volunteer police, as police volunteers are not police officers for the purposes of the Act.

Powers, duties and terms of service of police volunteers

Schedule 1 (7) inserts Part 7A (proposed sections 91A–91H), dealing exclusively with the volunteer police. The provisions of the new Part may be summarised as follows:

- police volunteers, while on duty, have the same powers, authorities and privileges as special constables appointed under Part 4 of the Police Offences Act 1901 (which means, for example, that they have the same powers and discretions as police officers in connection with the apprehension of offenders)—proposed section 91A;
- police volunteers are to be appointed for a fixed term, but may be dismissed for any reason that appears to the Commissioner of Police to be sufficient—proposed section 91B;
- the functions of police volunteers are to be determined by the Commissioner, subject to the regulations—proposed section 91C;
- police volunteers are not employees or servants of the Crown for the purposes of any Act—proposed section 91D;
- the Crown is vicariously liable for the torts of a police volunteer committed while exercising his or her functions—proposed section 91E;
- complaints against police volunteers are to be handled in essentially the same way as complaints against police officers (except that the judicial procedures for the review of decisions concerning the discipline of police officers will not apply)—proposed section 91F;
- police volunteers are to be issued with such equipment as the Commissioner may determine, but not with firearms—proposed section 91G;
- the volunteer police scheme is introduced on a trial basis, and the whole of Part 7A will be repealed on 31 December 1994, unless Parliament by enactment or the Governor-in-Council by proclamation saves it—proposed section 91H.

Other amendments

Schedule 1 contains other amendments, to the following effect:

- police volunteers, before entering into duty, are required to take an appropriate oath or make an appropriate affirmation (Schedule 1 (5));

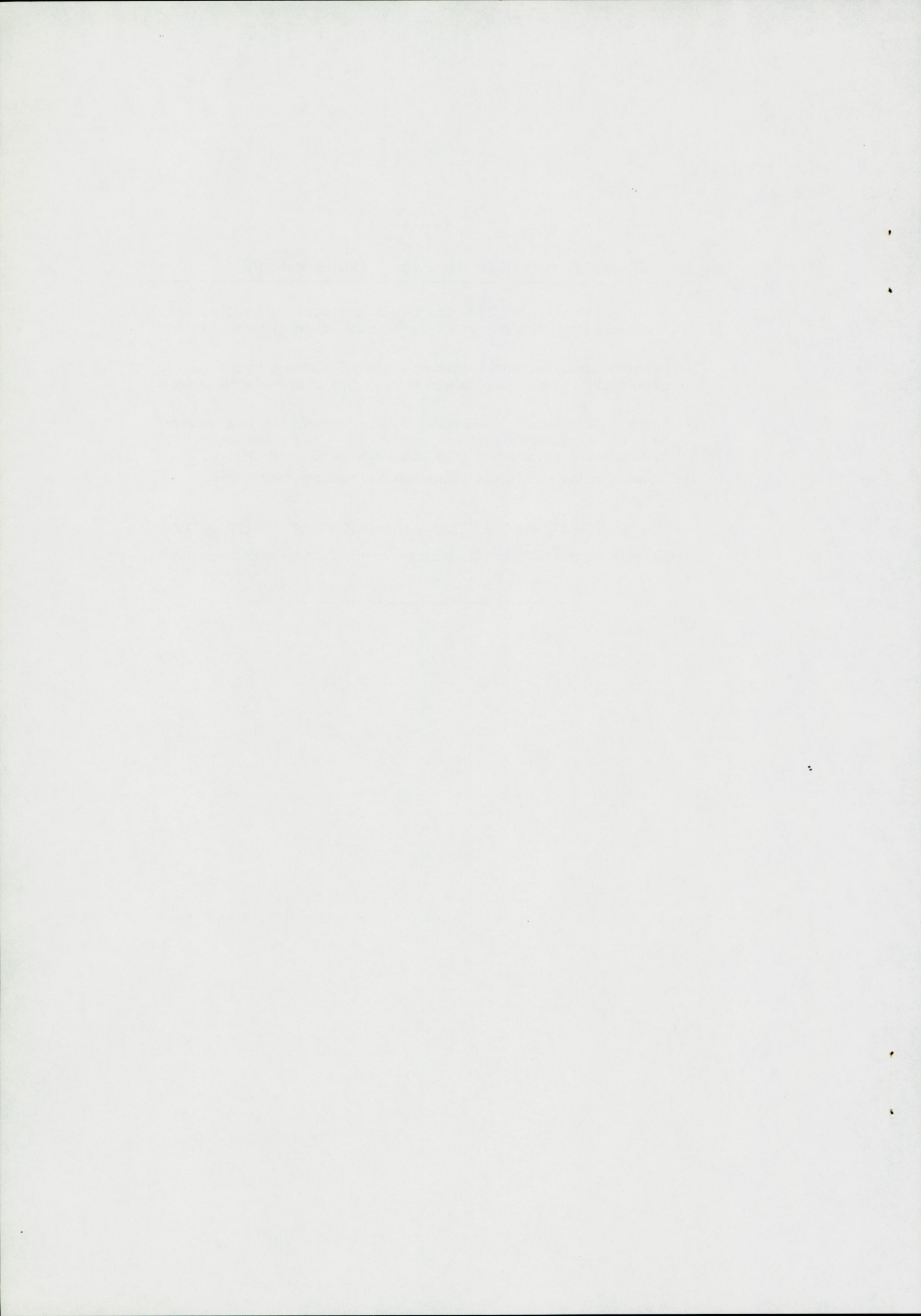
Police Service (Volunteer Police) Amendment 1992

- police volunteers are not to be required to take leave or resign from duty in order to contest a State or Federal election, as police officers are (Schedule 1 (8) and (9));
- police volunteers, unlike other members of the police service, are not liable to garnishment of their wages or salaries in satisfaction of civil debts (Schedule 1 (10));
- subject to the regulations, the discipline of police volunteers is to be a matter for the Commissioner, whose disciplinary powers may, if the regulations permit, be exercised under delegation by other police officers (Schedule 1 (11)).

The Schedule makes other minor, consequential or ancillary amendments.

SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

This Schedule amends other Acts as a consequence of the enactment of the proposed Act.



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TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Police Service Act 1990 No. 47
4. Consequential amendment of other Acts

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990
SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS

**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Police Service Act 1990 to provide for the undertaking, on a trial basis, of certain aspects of police work by community volunteers.

Police Service (Volunteer Police) Amendment 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Volunteer Police) Amendment Act 1992.

5 Commencement

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

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

Consequential amendment of other Acts

10 4. Each Act specified in Schedule 2 is amended in the manner set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990**

(Sec. 3)

15 (1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**police volunteer**” means a person appointed to the volunteer police under Part 7A;

20 (2) Section 5 (**Composition of Police Service**):

After section 5 (d), insert:

(e) the volunteer police.

(3) Section 10 (**Positions in Police Service**):

In section 10 (5), after “employees”, insert “and police volunteers”.

25 (4) Section 11 (**Designation of police officers**):

In section 11 (5), after “employee”, insert “or police volunteer”.

Police Service (Volunteer Police) Amendment 1992

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

- (5) Section 13 (Oath to be taken by persons exercising police functions):
- Omit section 13 (1), insert instead: 5
- (1) Before a person (including any police volunteer) exercises any of the functions of a police officer, the person must take the appropriate oath or make the appropriate affirmation prescribed by the regulations.
- (6) Section 62 (Officers to whom Part applies): 10
- From section 62, omit “and temporary employees”, insert instead “, temporary employees and the volunteer police”.
- (7) Part 7A:
- After Part 7, insert:
- PART 7A—THE VOLUNTEER POLICE** 15
- Appointment of volunteers**
- 91A. (1) The Commissioner may appoint such persons as the Commissioner considers suitable to the volunteer police.
- (2) The appointment confers on the person all the powers, authorities and privileges of a special constable appointed under Part 4 of the Police Offences Act 1901 while the person is a police volunteer. 20
- Terms of service**
- 91B. (1) A person appointed to the volunteer police has and may exercise the functions of a police volunteer (except for any period of suspension from duty) for the term specified in the instrument of the person’s appointment as such, unless the person’s appointment is sooner revoked. 25
- (2) The Commissioner may, for any reason that appears to the Commissioner to be sufficient, revoke a person’s appointment as a police volunteer. 30
- Functions**
- 91C. (1) A police volunteer has such functions as may be determined from time to time by the Commissioner, subject to the regulations. 35
- (2) The functions of the Commissioner under this section may be delegated under section 31.

Police Service (Volunteer Police) Amendment 1992

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(3) The functions of a police volunteer are to be exercised under the supervision of a police officer at all times.

5 **Non-employee status**

91D. (1) For the purposes of the Industrial Relations Act 1991, the Workers Compensation Act 1987 or any other Act, a person appointed as a police volunteer does not, by virtue of the appointment, become an employee or servant of the Crown or of the Commissioner or any person.

(2) This section has effect subject to section 91E.

Liability of police volunteers

91E. The Law Reform (Vicarious Liability) Act 1983 applies to and in respect of a police volunteer in the same way as it applies to and in respect of a police officer.

Complaints against volunteers

91F. A complaint by any person against a police volunteer may be made and dealt with under the Police Regulation (Allegations of Misconduct) Act 1978 in the same way as a complaint against a police officer, and the provisions of that Act (Part 7 excepted) apply, with any necessary modifications, to any such complaint.

Volunteers not to carry arms

91G. A police volunteer is to be issued with such equipment (including weapons) as the Commissioner may determine, but is not to be issued with firearms.

Repeal of this Part

91H. This Part ceases to have effect on 31 December 1994, and is taken to be repealed from that date, unless this section is sooner repealed by an Act or by proclamation of the Governor published in the Gazette.

(8) **Section 92 (Member contesting State election):**

After section 92 (3), insert:

(4) Nothing in this section applies to a police volunteer in his or her capacity as such.

(9) **Section 93 (Re-appointment of member resigning to contest Commonwealth election):**

After section 93 (3), insert:

Police Service (Volunteer Police) Amendment 1992

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

- (4) Nothing in this section applies to a police volunteer in his or her capacity as such.
- (10) Section 96 (**Attachment of wages or salary of members of Police Service**): 5
 After section 96 (2), insert:
 (3) Nothing in this section applies to a police volunteer in his or her capacity as such.
- (11) Section 98A: 10
 After section 98, insert:
Discipline of volunteer police
 98A. (1) The regulations may make provision for or with respect to the discipline of the volunteer police, including the definition of conduct constituting a breach of discipline and the imposition by the Commissioner of any one or more of the following measures on any police volunteer guilty of a breach of discipline: 15
- (a) the giving of a caution or reprimand;
 - (b) requiring the volunteer to undergo counselling; 20
 - (c) suspending the volunteer from service;
 - (d) revoking the volunteer's appointment as a police volunteer.
- (2) The functions of the Commissioner under this section are exercisable by a delegate only to the extent provided by the regulations. 25
- (3) The decision, given in accordance with this section and the regulations, of the Commissioner or a delegate of the Commissioner in a matter of discipline of a police volunteer is final and is not subject to appeal or to review by any court or tribunal, except where the regulations otherwise provide. 30
- (4) Regulations made for the purposes of this section may provide for the adoption, with specified modifications, of regulations made for the purposes of section 97.
- (5) Nothing in this section affects the powers of the Commissioner under section 91B. 35

Police Service (Volunteer Police) Amendment 1992

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(12) Section 100 (Neglect of duty etc.):

At the end of section 100, insert:

- 5 (2) A police volunteer who neglects or refuses to obey any lawful order or carry out any lawful duty as a police volunteer is guilty of an offence.

Maximum penalty: 20 penalty units.

(13) Section 102 (Wearing of police uniform by others):

10 After section 102 (2) (a), insert:

- (a1) the person was a police volunteer on duty and was wearing a uniform approved by the Commissioner for wearing by police volunteers; or

(14) Section 103 (Impersonation of police officers):

15 At the end of section 103, insert:

- (2) A person is not regarded, for the purposes of this section, as impersonating a police officer merely because the person, being a police volunteer, is acting in the execution of his or her duty as such.

20 (15) Section 114 (Protection of police acting in execution of warrant):

After section 114 (2), insert:

- 25 (3) This section extends to apply to a police volunteer to any extent acting or assisting in the execution of a warrant referred to in subsection (1).

(16) Schedule 4 (Savings, transitional and other provisions):

(a) At the end of clause 2 (1), insert:

the Police Service (Volunteer Police) Amendment Act 1992.

30 (b) At the end of the Schedule, insert:

**PART 5—PROVISIONS CONSEQUENT ON
ENACTMENT OF POLICE SERVICE (VOLUNTEER
POLICE) AMENDMENT ACT 1992**

Definition

- 35 18. In this Part, “the 1992 Act” means the Police Service (Volunteer Police) Amendment Act 1992.

Police Service (Volunteer Police) Amendment 1992

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—continued**

Oath of service

19. (1) An oath or affirmation that, immediately before the commencement of the 1992 Act, was prescribed for the purposes of section 13 is taken to be the oath or affirmation prescribed to be taken by police officers under that section, as amended by that Act. 5

(2) The amendment by the 1992 Act of section 13 does not require a police officer to take an oath or make an affirmation a second time for the purposes of that section. 10

**SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF
OTHER ACTS**

(Sec. 4)

Police Regulation (Appeals) Act 1923 No. 33 15

In subsection (1) of section 7 (**Appeals in respect of administrative officers**), after “police officer”, insert “, a police volunteer”.

**State Authorities Non-contributory Superannuation Act 1987
No. 212**

In subsection (1) of section 6 (**Provisions respecting certain employees**), after “Service” where firstly occurring, insert “(other than police volunteers)”. 20

Superannuation Act 1916 No. 28

In subsection (3) of section 3B (**Certain persons to be regarded as employers for the purposes of this Act**), after “Service” where firstly occurring, insert “(other than police volunteers)”. 25

**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
ACT 1992 No. 54**

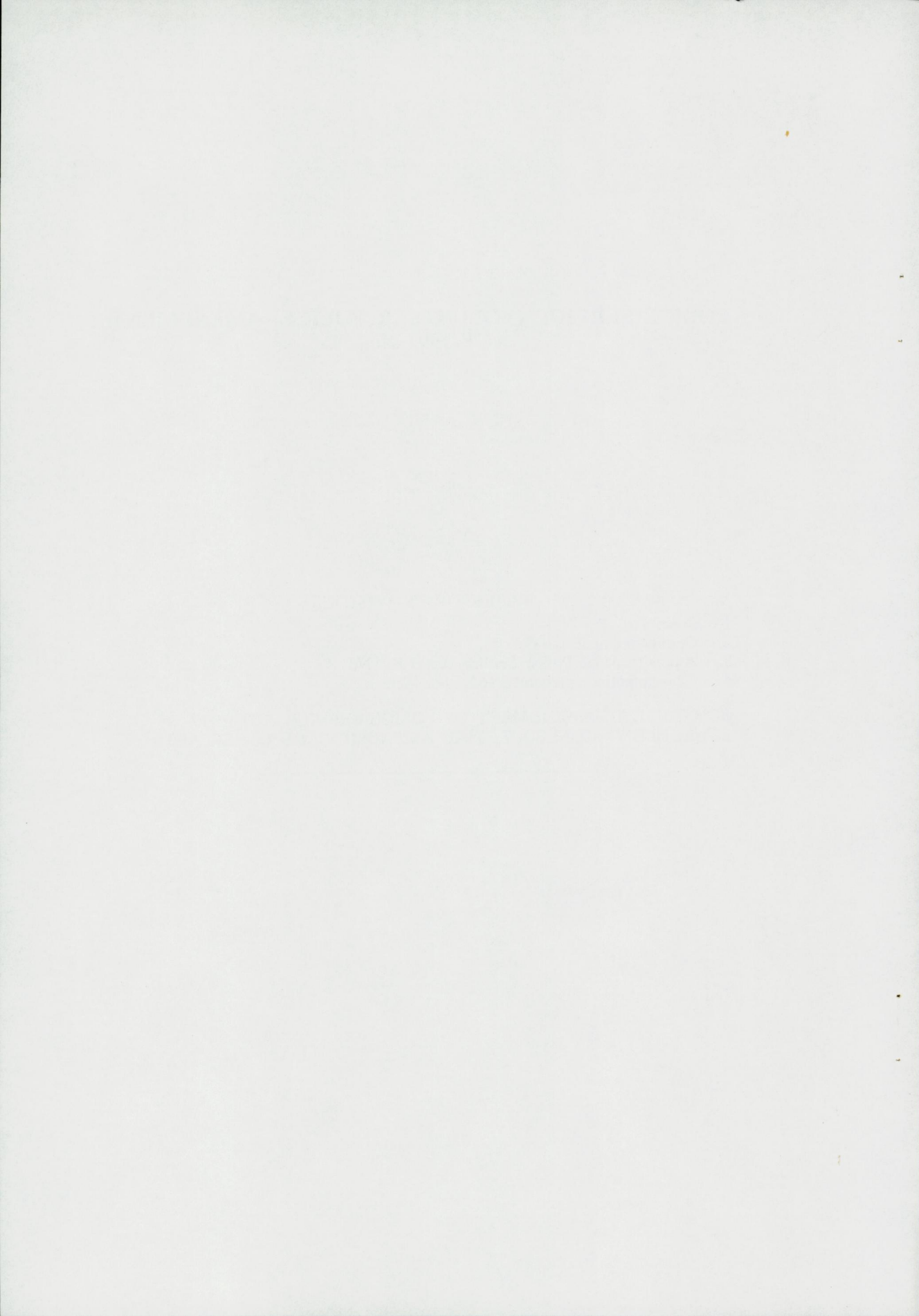
NEW SOUTH WALES



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SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT 1990
SCHEDULE 2—CONSEQUENTIAL AMENDMENT OF OTHER ACTS



**POLICE SERVICE (VOLUNTEER POLICE) AMENDMENT
ACT 1992 No. 54**

NEW SOUTH WALES



Act No. 54, 1992

An Act to amend the Police Service Act 1990 to provide for the undertaking, on a trial basis, of certain aspects of police work by community volunteers. [Assented to 7 October 1992]

Police Service (Volunteer Police) Amendment Act 1992 No. 54

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Police Service (Volunteer Police) Amendment Act 1992.

Commencement

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

Amendment of Police Service Act 1990 No. 47

3. The Police Service Act 1990 is amended as set out in Schedule 1.

Consequential amendment of other Acts

4. Each Act specified in Schedule 2 is amended in the manner set out in that Schedule.

**SCHEDULE 1—AMENDMENT OF POLICE SERVICE
ACT 1990**

(Sec. 3)

(1) Section 3 (**Definitions**):

In section 3 (1), insert in alphabetical order:

“**police volunteer**” means a person appointed to the volunteer police under Part 7A;

(2) Section 5 (**Composition of Police Service**):

After section 5 (d), insert:

(e) the volunteer police.

(3) Section 10 (**Positions in Police Service**):

In section 10 (5), after “employees”, insert “and police volunteers”.

(4) Section 11 (**Designation of police officers**):

In section 11 (5), after “employee”, insert “or police volunteer”.

Police Service (Volunteer Police) Amendment Act 1992 No. 54

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(5) Section 13 (**Oath to be taken by persons exercising police functions**):

Omit section 13 (1), insert instead:

(1) Before a person (including any police volunteer) exercises any of the functions of a police officer, the person must take the appropriate oath or make the appropriate affirmation prescribed by the regulations.

(6) Section 62 (**Officers to whom Part applies**):

From section 62, omit “and temporary employees”, insert instead “, temporary employees and the volunteer police”.

(7) Part 7A:

After Part 7, insert:

PART 7A—THE VOLUNTEER POLICE

Appointment of volunteers

91A. (1) The Commissioner may appoint such persons as the Commissioner considers suitable to the volunteer police.

(2) The appointment confers on the person all the powers, authorities and privileges of a special constable appointed under Part 4 of the Police Offences Act 1901 while the person is a police volunteer.

Terms of service

91B. (1) A person appointed to the volunteer police has and may exercise the functions of a police volunteer (except for any period of suspension from duty) for the term specified in the instrument of the person’s appointment as such, unless the person’s appointment is sooner revoked.

(2) The Commissioner may, for any reason that appears to the Commissioner to be sufficient, revoke a person’s appointment as a police volunteer.

Functions

91C. (1) A police volunteer has such functions as may be determined from time to time by the Commissioner, subject to the regulations.

(2) The functions of the Commissioner under this section may be delegated under section 31.

Police Service (Volunteer Police) Amendment Act 1992 No. 54

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(3) The functions of a police volunteer are to be exercised under the supervision of a police officer at all times.

Non-employee status

91D. (1) For the purposes of the Industrial Relations Act 1991, the Workers Compensation Act 1987 or any other Act, a person appointed as a police volunteer does not, by virtue of the appointment, become an employee or servant of the Crown or of the Commissioner or any person.

(2) This section has effect subject to section 91E.

Liability of police volunteers

91E. The Law Reform (Vicarious Liability) Act 1983 applies to and in respect of a police volunteer in the same way as it applies to and in respect of a police officer.

Complaints against volunteers

91F. A complaint by any person against a police volunteer may be made and dealt with under the Police Regulation (Allegations of Misconduct) Act 1978 in the same way as a complaint against a police officer, and the provisions of that Act (Part 7 excepted) apply, with any necessary modifications, to any such complaint.

Volunteers not to carry arms

91G. A police volunteer is to be issued with such equipment (including weapons) as the Commissioner may determine, but is not to be issued with firearms.

Repeal of this Part

91H. This Part ceases to have effect on 31 December 1994, and is taken to be repealed from that date, unless this section is sooner repealed by an Act or by proclamation of the Governor published in the Gazette.

(8) Section 92 (**Member contesting State election**):

After section 92 (3), insert:

(4) Nothing in this section applies to a police volunteer in his or her capacity as such.

(9) Section 93 (**Re-appointment of member resigning to contest Commonwealth election**):

After section 93 (3), insert:

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(4) Nothing in this section applies to a police volunteer in his or her capacity as such.

(10) Section 96 (**Attachment of wages or salary of members of Police Service**):

After section 96 (2), insert:

(3) Nothing in this section applies to a police volunteer in his or her capacity as such.

(11) Section 98A:

After section 98, insert:

Discipline of volunteer police

98A. (1) The regulations may make provision for or with respect to the discipline of the volunteer police, including the definition of conduct constituting a breach of discipline and the imposition by the Commissioner of any one or more of the following measures on any police volunteer guilty of a breach of discipline:

- (a) the giving of a caution or reprimand;
- (b) requiring the volunteer to undergo counselling;
- (c) suspending the volunteer from service;
- (d) revoking the volunteer's appointment as a police volunteer.

(2) The functions of the Commissioner under this section are exercisable by a delegate only to the extent provided by the regulations.

(3) The decision, given in accordance with this section and the regulations, of the Commissioner or a delegate of the Commissioner in a matter of discipline of a police volunteer is final and is not subject to appeal or to review by any court or tribunal, except where the regulations otherwise provide.

(4) Regulations made for the purposes of this section may provide for the adoption, with specified modifications, of regulations made for the purposes of section 97.

(5) Nothing in this section affects the powers of the Commissioner under section 91B.

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

(12) Section 100 (**Neglect of duty etc.**):

At the end of section 100, insert:

(2) A police volunteer who neglects or refuses to obey any lawful order or carry out any lawful duty as a police volunteer is guilty of an offence.

Maximum penalty: 20 penalty units.

(13) Section 102 (**Wearing of police uniform by others**):

After section 102 (2) (a), insert:

(a1) the person was a police volunteer on duty and was wearing a uniform approved by the Commissioner for wearing by police volunteers; or

(14) Section 103 (**Impersonation of police officers**):

At the end of section 103, insert:

(2) A person is not regarded, for the purposes of this section, as impersonating a police officer merely because the person, being a police volunteer, is acting in the execution of his or her duty as such.

(15) Section 114 (**Protection of police acting in execution of warrant**):

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(16) Schedule 4 (**Savings, transitional and other provisions**):

(a) At the end of clause 2 (1), insert:

the Police Service (Volunteer Police) Amendment Act 1992.

(b) At the end of the Schedule, insert:

**PART 5—PROVISIONS CONSEQUENTIAL ON
ENACTMENT OF POLICE SERVICE (VOLUNTEER
POLICE) AMENDMENT ACT 1992**

Definition

18. In this Part, “the 1992 Act” means the Police Service (Volunteer Police) Amendment Act 1992.

Police Service (Volunteer Police) Amendment Act 1992 No. 54

SCHEDULE 1—AMENDMENT OF POLICE SERVICE ACT
1990—*continued*

Oath of service

19. (1) An oath or affirmation that, immediately before the commencement of the 1992 Act, was prescribed for the purposes of section 13 is taken to be the oath or affirmation prescribed to be taken by police officers under that section, as amended by that Act.

(2) The amendment by the 1992 Act of section 13 does not require a police officer to take an oath or make an affirmation a second time for the purposes of that section.

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In subsection (1) of section 6 (**Provisions respecting certain employees**), after “Service” where firstly occurring, insert “(other than police volunteers)”.

Superannuation Act 1916 No. 28

In subsection (3) of section 3B (**Certain persons to be regarded as employers for the purposes of this Act**), after “Service” where firstly occurring, insert “(other than police volunteers)”.

[*Minister's second reading speech made in—
Legislative Council on 7 May 1992
Legislative Assembly on 17 September 1992*]

