

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

Presented and read a first time

(Attorney-General's)

**COMPLAINTS (AUSTRALIAN FEDERAL POLICE)
AMENDMENT BILL 1994**

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1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
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A BILL

FOR

An Act to amend the *Complaints (Australian Federal Police) Act 1981*, and for related purposes

The Parliament of Australia enacts:

Short title etc.

5 **1.(1)** This Act may be cited as the *Complaints (Australian Federal Police) Amendment Act 1994*.

(2) In this Act, “**Principal Act**” means the *Complaints (Australian Federal Police) Act 1981*¹.

Definitions

10 **2.** Section 3 of the Principal Act is amended:

(a) by omitting “a member” (wherever occurring) from the definition of “minor complaint” in subsection (1) and substituting “an AFP appointee”;

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- (b) by omitting from subsection (1) the definitions of “member”, “member of the Australian Federal Police” and “staff member”;
- (c) by inserting in subsection (1) the following definitions:
- “ ‘**AFP appointee**’ means:
- (a) a member of the Australian Federal Police within the meaning of subsection 6(2) of the *Australian Federal Police Act 1979*; or
- (b) a staff member of the Australian Federal Police within the meaning of subsection 6(3) of that Act; or
- (c) a special member of the Australian Federal Police appointed under section 27 of that Act;
- ‘**Federal police officer**’ means:
- (a) a member of the Australian Federal Police within the meaning of subsection 6(2) of the *Australian Federal Police Act 1979*; or
- (b) a special member of the Australian Federal Police appointed under section 27 of that Act;”;
- (d) by omitting from paragraph (3)(a) “members” (wherever occurring) and substituting “AFP appointees”;
- (e) by omitting from paragraph (3)(b) “member” (wherever occurring) and substituting “AFP appointee”;
- (f) by omitting from paragraphs “a member” (wherever occurring) (3)(ba), (bb), (bc) and (bd) and substituting “an AFP appointee”;
- (g) by omitting paragraph (3)(c) and substituting the following paragraph:
- “(c) a reference to the charging of an AFP appointee in respect of a breach of discipline is a reference to the institution of proceedings against the appointee in respect of the breach in accordance with the prescribed regulations;”.

Conciliation

3. Section 6B of the Principal Act is amended:

- (a) by omitting subsection (5) and substituting the following subsection:

“(5) Evidence of a statement made or an answer given by an AFP appointee in the course of an attempt under this section to resolve a complaint by conciliation is not admissible against the appointee in any proceedings (including proceedings in relation to a breach of discipline).”;

(b) by omitting subsection (7) and substituting the following subsection:

5 “(7) For the purposes of subsection (1), a senior member is an AFP appointee (other than the appointee against whom the complaint is made) whose substantive rank is not lower than sergeant.”.

Action consequential on report

4. Section 11 of the Principal Act is amended by inserting in paragraph (1)(b) “or (3A)” after “subsection 26(3)”.

Transfers to Investigation Division

10 5. Section 16 of the Principal Act is amended:

(a) by omitting from subsections (1) and (2) “members” and substituting “Federal police officers”;

(b) by omitting from subsection (2) “member” (wherever occurring) and substituting “Federal police officer”;

15 (c) by omitting subsection (3) and substituting the following subsections:

20 “(3) Subject to subsection (4), the Commissioner may direct a Federal police officer serving in the Investigation Division to perform duties that are not related to the Division’s functions so long as those duties do not unduly interfere with the performance by the Division of its functions.

25 “(4) Subject to subsection (5), the Commissioner must not direct a Federal police officer serving in the Investigation Division to investigate an offence alleged to have been committed by a person other than an AFP appointee.

“(5) A Federal police officer may investigate an offence alleged to have been committed by a person other than an AFP appointee to the extent that such an investigation is necessary to investigate an offence alleged to have been committed by an AFP appointee.”.

30 6. After section 18 of the Principal Act the following section is inserted:

False complaints and providing false information in relation to complaints

35 “19.(1) A person must not make a complaint to which this Act applies to an AFP appointee about action taken by an AFP appointee if the person knows that the complaint is false in a material particular.

Penalty: 20 penalty units.

“(2) A person must not, in relation to a complaint to which this Act applies, provide information to an AFP appointee that the person knows to be false in a material particular.

Penalty: 20 penalty units.

“(3) Proceedings for an offence against this section may only be brought if: 5

- (a) the Ombudsman; or
- (b) a person authorised in writing by the Ombudsman for the purposes of this section;

has been consulted before the bringing of the proceedings.”. 10

7. After section 21 of the Principal Act the following section is inserted:

Ombudsman may initiate investigation

“21A.(1) The Ombudsman may, on his or her own initiative:

- (a) undertake an investigation of the actions of an AFP appointee; or
- (b) refer any matter relating to the actions of an AFP appointee (other than a procedural matter) to the Investigation Division for investigation. 15

“(2) In this section:

‘actions of an AFP appointee’ includes actions taken by the appointee before the commencement of this section; 20

‘procedural matter’ means a matter that, in substance, relates to the practices and procedures of the Australian Federal Police.”.

Duties of Ombudsman with respect to complaints

8 Section 23 of the Principal Act is amended by omitting subsection (4) and substituting the following subsection: 25

“(4) If the Ombudsman has power under this Act and under paragraph 5(1)(b) of the *Ombudsman Act 1976* to investigate any action of an AFP appointee, the Ombudsman cannot investigate the action under the *Ombudsman Act 1976*.

Ombudsman may determine that complaint should not be investigated 30

9 Section 24 of the Principal Act is amended by inserting in subparagraph (1)(b)(i) “, trivial” after “frivolous”.

Special or additional investigations conducted by Ombudsman under this Part 35

10 Section 26 of the Principal Act is amended:

- (a) by omitting subsection (3) and substituting the following subsections:

“(3) On completing an investigation the Ombudsman may, if he or she thinks it appropriate to do so, when giving particulars of the results of his or her investigation to the Commissioner under subsection 34(1):

- 5 (a) recommend to the Commissioner that an AFP appointee be:
- (i) charged with an offence or a breach of discipline; or
 - (ii) offered a caution or admonition for a breach of discipline;
- that the Ombudsman thinks the appointee committed; or
- 10 (b) forward to the Minister a request that the Minister cause an inquiry under section 50 to be held into the action that was the subject of the investigation; or
- (c) notify the Commissioner, in writing, that the Ombudsman thinks an AFP appointee took action that the appointee should
- 15 not have taken.

“(3A) The Ombudsman may, in a notification under paragraph (3)(c), include any recommendation (other than a recommendation referred to in paragraph (3)(a) or (b)) that the Ombudsman thinks fit to make.

- 20 “(3B) If the Ombudsman makes a recommendation under subsection (3A), the Ombudsman may also request the Commissioner to give to the Ombudsman, within a specified time, particulars of the action the Commissioner proposes to take as a result of the recommendation.”;
- 25 (b) by omitting from subsection (5) “member” (wherever occurring) and substituting “AFP appointee”;
- (c) by adding at the end the following subsections:

“(6) The Commissioner may give to the Ombudsman comments about a notification given to him or her under paragraph (3)(c).

- 30 “(7) Sections 32 and 33 apply to a recommendation made under subsection (3A) of this section in the same manner as they apply in the same way as a report to the Commissioner under section 31.

“(8) On completion of an investigation the Ombudsman may, if he or she thinks fit, give to any Department, body or person comments or suggestions with respect to any matter relating to or arising out of the investigation.”.

35

Power to obtain information and documents

11. Section 27 of the Principal Act is amended by adding at the end of subsection (5) the following word and paragraph:

“; or (f) proceedings in relation to a breach of discipline.”.

**Persons affected to be informed of results of investigation
by Ombudsman**

12. Section 34 of the Principal Act is amended:

(a) by inserting in subsection (1) “or the actions of an AFP appointee” 5
after “complaint” (wherever occurring);

(b) by omitting subsection (2);

(c) by omitting from subsection (3) “an investigation of a complaint by
him or her.” and substituting:

“his or her investigation of: 10

(a) a complaint; or

(b) the actions of an AFP appointee.”.

Ombudsman to inform complainant of results of investigation

13. Section 37 of the Principal Act is amended:

(a) by omitting from subsection (1) “, being a complaint that was 15
originally referred to the Commissioner by the Ombudsman under
section 23”;

(b) by omitting from paragraph (1)(b) “a member” and substituting
“an AFP appointee”;

(c) by omitting from subsection (2) “containing recommendations 20
referred to in paragraph 36(3)(a)” and substituting “or makes
a recommendation in accordance with subsection 36(3) or
subsection 36(3A)”.

14. After section 38 of the Principal Act the following section is 25
inserted:

Progress reports about complaints

“38A.(1) The Ombudsman may, at any time, give a complainant a
progress report about a complaint to which this Act applies.

“(2) A progress report may set out any information that the Ombudsman 30
thinks appropriate about the way in which the complaint is being dealt with
under this Act.

“(3) A progress report is additional to any other report that must be
given to the complainant under this Act.”.

Reports of special inquiries

15. Section 52 of the Principal Act is amended: 35

(a) by omitting from subsection (1) “he” and substituting “the
Minister”;

- (b) by inserting in paragraph (2)(a) “paragraph 26(3)(b) or” after “under”;
- (c) by omitting from paragraph (2)(b) “a member” and substituting “an AFP appointee”;
- 5 (d) by omitting from paragraph (2)(b) “his” and substituting “the Minister’s”;
- (e) by inserting in paragraph (2)(b) “or she” after “he”.

16. After Part V of the Principal Act the following Part is inserted:

“PART VA—UNDISPUTED CHARGES

10 **Undisputed charges in respect of breaches of discipline**

“52A.(1) If:

(a) proceedings are begun by the Commissioner against an AFP appointee under the prescribed regulations in respect of a breach of discipline; and

15 (b) the proceedings are the result of:

(i) the investigation of a complaint that was referred to the Commissioner by the Ombudsman; or

20 (ii) the investigation of a complaint (other than a complaint made by a person known to the Commissioner to be an AFP appointee) that was referred to the Investigation Division under section 6; or

(iii) the investigation of the actions of the appointee by the Ombudsman under Part III; and

25 (c) the appointee admits the truth of the matters alleged to constitute the breach;

the proceedings are to be heard and determined by the Commissioner, or by the Disciplinary Tribunal, in accordance with the following subsections.

30 “(2) If the Commissioner thinks that the public interest requires that the proceedings be dealt with by the Tribunal, then the proceedings are to be dealt with by the Tribunal under subsection 67(1).

“(3) If the Commissioner does not think that the public interest requires the proceedings to be dealt with by the Tribunal, and the Ombudsman agrees in writing, then the proceedings are to be dealt with by the Commissioner.

“(4) If:

35 (a) the Commissioner does not think that the public interest requires the proceedings to be dealt with by the Tribunal; and

(b) the Ombudsman does not agree in writing;

the proceedings are to be dealt with by the Tribunal or by the Commissioner, as the Attorney-General, in writing, directs.

“(5) The following rules apply to a direction by the Attorney-General for the purposes of subsection (4):

- (a) before giving the direction, the Attorney-General must consider any relevant report, notification or recommendation and the results of any relevant inquiries; 5
- (b) if the Attorney-General thinks that the public interest requires the proceedings to be dealt with by the Tribunal—the Attorney-General must, in writing, direct that they be dealt with by the Tribunal under subsection 67(1). 10

Commissioner may impose penalty

“52B.(1) If, after hearing and determining proceedings, the Commissioner finds an AFP appointee guilty of a breach of discipline, the Commissioner may, subject to subsection (2), impose any penalty on the appointee in respect of the breach that the Commissioner has power to impose in respect of such a breach under the prescribed regulations. 15

“(2) Unless the Commissioner has first complied with subsections (3) and (4), the Commissioner must not impose a penalty under subsection (1) by way of reducing an AFP appointee to a lower rank or level or dismissing the appointee from the Australian Federal Police. 20

“(3) The Commissioner must give the appointee a notice informing the appointee:

- (a) that the Commissioner considers that it might be appropriate to impose a penalty by way of reducing the appointee to a lower rank or level or dismissing the appointee; and 25
- (b) that the appointee may, within 7 days after receiving the notice, give to the Commissioner any written statement that the appointee wishes to be taken into consideration in deciding the appropriate penalty to be imposed. 30

“(4) The Commissioner must take into consideration the matters contained in any statements given in accordance with the notice.

“(5) Subsection (2) does not affect the rights of the AFP appointee under sections 74 and 75.

Ombudsman to be notified of penalty 35

“52C. If the Commissioner imposes a penalty on an AFP appointee, the Commissioner must, as soon as is practicable, give written notification of the imposition of the penalty to the appointee and the Ombudsman.

Ombudsman may inform Attorney-General of penalty

“52D. On being notified of the imposition of a penalty, the Ombudsman may, if he or she thinks that the penalty is insufficient, give to the Attorney-General:

- 5 (a) written notification of the imposition of the penalty; and
(b) any written comments the Ombudsman thinks relevant.

Appeals

10 “52E. If a penalty is imposed on an AFP appointee by the Commissioner under subsection 52B(1), the AFP appointee or the Attorney-General may appeal against the penalty under section 68 as if it were imposed by the Commissioner under subsection 67(6).”

Charges in respect of breaches of discipline

17. Section 67 of the Principal Act is amended:

(a) by omitting subsection (1) and substituting the following subsection:

15 “(1) Subject to section 52A, proceedings must be heard and determined by the Disciplinary Tribunal if the proceedings are begun by the Commissioner against an AFP appointee under the prescribed regulations in respect of a breach of discipline as a result of:

- 20 (a) an investigation of a complaint that was referred to the Commissioner by the Ombudsman; or
(b) an investigation of a complaint that:
(i) was referred to the Investigation Division under section 6; and
(ii) was not made by a person known by the Commissioner to be an AFP appointee; or
25 (c) an investigation of the actions of the appointee by the Ombudsman under Part III;

whether or not also as a result of the appointee not accepting a caution or admonition.”;

- 30 (b) by omitting from subsections (2) and (3) “a member” (wherever occurring) and substituting “an AFP appointee”;
(c) by omitting from subsections (2) and (3) “the member” (wherever occurring) and substituting “the appointee”;
(d) by omitting from subsection (5) “member” (wherever occurring)
35 and substituting “AFP appointee”;
(e) by omitting from subsection (7) “a member” and substituting “an AFP appointee”;
(f) by omitting from subsections (6) and (7) “the member” (wherever occurring) and substituting “the appointee”;

- (g) by inserting in subsections (6) and (7) “or she” after “he” (wherever occurring);
- (h) by inserting in subsections (7) “or her” after “him”;
- (i) by omitting subsection (9) and substituting the following subsections:

“(9) Subject to subsection (10), as soon as practicable after the Disciplinary Tribunal has made its findings in respect of proceedings heard by it under subsection (1), the Commissioner must, unless the identity of the complainant is not known, cause particulars of the decision to be given, in writing, to the complainant.

“(10) The Commissioner must not cause particulars of the decision to be given under subsection (9) if the Disciplinary Tribunal makes a decision prohibiting or restricting the disclosure of the findings.”.

Powers of Tribunal

18. Section 71 of the Principal Act is amended by inserting in subsection (2) “a member of the Tribunal or” after “signed by”.

19. After section 88 of the Principal Act the following section is inserted:

Offence of victimisation

“88A. A person must not cause, or threaten to cause, detriment to another person (**‘the victim’**) on the ground that the victim, or any other person:

- (a) has made or might make a complaint under this Act; or
- (b) has given or might give a document or other information to a person under this Act.

Penalty: Imprisonment for 6 months.”.

Transitional provision

20. If section 87 of the Principal Act, as in force at any time before the commencement of this Act, applied to a person, section 87 of the Principal Act, as in force at any time after the commencement of section 21, continues to apply to the person.

Other amendments to extend the application of the *Complaints (Australian Federal Police) Act 1981* to AFP appointees

21. The Principal Act is amended as set out in Schedule 1.

Other amendments to introduce gender-neutral terminology in the *Complaints (Australian Federal Police) Act 1981*

22. The Principal Act is amended as set out in Schedule 2.

Other amendments to penalties

23. The Principal Act is amended as set out in Schedule 3.

SCHEDULE 1

Section 21

**OTHER AMENDMENTS TO EXTEND THE APPLICATION OF THE
COMPLAINTS (AUSTRALIAN FEDERAL POLICE) ACT 1981
TO AFP APPOINTEES**

Section 4:

Repeal, substitute:

Meaning of “action taken by AFP appointee”

“4. In this Act, unless the contrary intention appears, a reference to action taken by an AFP appointee is a reference to action that the appointee takes or purports to take:

- (a) because of his or her being an AFP appointee; or
- (b) in the exercise of powers, or the performance of functions, given to him or her as an AFP appointee by this Act or by another law.”.

Subsection 5(1):

Omit, substitute:

“(1) Subject to this section, if a person complains to an AFP appointee about action taken by the appointee or another AFP appointee, or complains to the Ombudsman about such action, this Act applies in relation to the complaint:

- (a) whether the complaint is made orally or in writing; and
- (b) whether or not the AFP appointee whose action is complained of is identified in the complaint; and
- (c) if the complaint is made to an AFP appointee—whether or not the identity of the complainant is known by, or disclosed to, the appointee.”.

Subsection 5(3):

- (a) Omit “members”, substitute “AFP appointees”.
- (b) Omit “member”, substitute “AFP appointee”.

Subsection 5(4):

Omit “a member”, substitute “an AFP appointee”.

Subsection 6(1):

Omit, substitute:

“(1) If:

- (a) a person complains to an AFP appointee about action taken by the appointee or by another AFP appointee; and

SCHEDULE 1—continued

- (b) the appointee to whom the complaint is made is an authorised appointee;

the authorised appointee must decide whether the complaint is a minor complaint and:

- (c) if he or she decides that the complaint is a minor complaint—refer it to an AFP appointee designated by the Commissioner for the purposes of section 6A; or
(d) otherwise—refer the complaint, as soon as practicable, to the Investigation Division for investigation.

“(2) If:

- (a) a person complains to an AFP appointee about action taken by the appointee or by another AFP appointee; and
(b) the appointee to whom the complaint is made is not an authorised appointee;

the appointee to whom the complaint is made must refer the complaint to an authorised appointee.”

Subsections 6(4) and (5):

Omit, substitute:

“(4) This section does not apply to a complaint made by a person who:

- (a) is known by the AFP appointee to whom the complaint is made to be an AFP appointee; or
(b) discloses to the AFP appointee to whom the complaint is made that he or she is an AFP appointee.

“(5) In this section:

‘**authorised appointee**’ means an AFP appointee authorised by the General Orders or General Instructions to make determinations under subsection (1);
‘**General Instructions**’ has the same meaning as in the *Australian Federal Police Act 1979*;

‘**General Orders**’ has the same meaning as in the *Australian Federal Police Act 1979*.”

Subsection 6A(1):

Omit “A member”, substitute “An AFP appointee”.

Subsections 6A(2), (3) and (4):

Omit “member” (wherever occurring), substitute “AFP appointee”.

SCHEDULE 1—continued

Subsection 7(5):

Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

Paragraph 7(5A)(a):

Omit “member”, substitute “AFP appointee”.

Subsection 7(6):

(a) Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

(b) Omit “the member”, substitute “the appointee”.

Subsection 7(7):

(a) Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

(b) Omit “the member of the Australian Federal Police”, substitute “the appointee”.

Subsection 7(8):

Omit “A member of the Australian Federal Police”, substitute “An AFP appointee”.

Subsection 7(10):

Omit “member of the Australian Federal Police”, substitute “Federal police officer”.

Subsection 7(11):

Omit, substitute:

“(11) An AFP appointee is not liable to any penalty (other than a penalty under this Act) merely because the appointee:

(a) gives information; or

(b) produces a document or other record; or

(c) answers a question;

when directed to do so by a member of the Investigation Division under this section.”.

Section 8:

Repeal, substitute:

Reference of complaints to other persons

“8.(1) The officer in charge may:

SCHEDULE 1—continued

- (a) if he or she thinks that the whole or a part of the investigation should be carried out by a person having special qualifications and the Commissioner so approves—authorise a person who has those qualifications to make the whole or the part of the investigation for the Division; or
- (b) if he or she thinks that a complaint is not such as to require investigation by a member of the Division and the Commissioner so approves—authorise a Federal police officer to make the investigation for the Division.

“(2) If the officer in charge gives such an authority, each reference in section 7 to a member of the Investigation Division is to be read, in relation to the whole or the part of the investigation, as including a reference to the authorised person.”.

Subsection 10(2):

Omit “member”, substitute “AFP appointee”.

Subsections 11(1), (2) and (3):

Omit “a member or members” (wherever occurring), substitute “one or more AFP appointees”.

Subsection 11(7):

Omit “the member, or any of the members” (wherever occurring), substitute “the AFP appointee, or any of the AFP appointees”.

Subsection 11(9):

Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Section 12:

- (a) Omit “a member” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.

Section 13:

- (a) Omit “a member”, substitute “an AFP appointee”.
- (b) Omit “the member”, substitute “the appointee”.

Subsection 14(2):

Omit “members” (wherever occurring), substitute “AFP appointees”.

SCHEDULE 1—continued

Subsections 17(1) and (3):

Omit “member” (wherever occurring), substitute “Federal police officer”.

Subsections 20(1) and 21(4):

Omit “a member”, substitute “an AFP appointee”.

Subsection 21(5):

(a) Omit “member”, substitute “AFP appointee”.

(b) Omit “members”, substitute “AFP appointees”.

Subsection 22(1):

Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Subsections 22(5) and (6):

Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

Paragraph 22(7)(a):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 22(7)(b):

Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

Subsection 22(8):

Omit “a member”, substitute “an AFP appointee”.

Subsection 23(1):

Omit “a member”, substitute “an AFP appointee”.

Subsection 23(5):

Omit “a member”, substitute “an AFP appointee”.

Subsection 24A(1):

(a) Omit “a member” (wherever occurring), substitute “an AFP appointee”.

(b) Omit “such member”, substitute “the appointee”.

(c) Omit “such members”, substitute “the appointees”.

SCHEDULE 1—continued

Subsection 24A(2):

Omit “member or members”, substitute “AFP appointees”.

Subsection 25(1):

- (a) After “complaint” (first occurring) insert “or the actions of an AFP appointee”.
- (b) Add at the end “or the actions of the appointee are to be investigated”.

Subsection 25(1A):

- (a) After “complaint” (first and second occurring) insert “or the actions of an AFP appointee”.
- (b) After “complaints” insert “or actions of AFP appointees”.

Paragraph 25(3)(a):

Omit “member of the Australian Federal Police”, substitute “Federal police officer”.

Subsection 25(5):

After “complaint” (wherever occurring) insert “or the actions of an AFP appointee”.

Subsection 25(7):

- (a) After “of a complaint”, insert “or the actions of an AFP appointee”.
- (b) Omit “a member” (wherever occurring), substitute “an AFP appointee”.
- (c) Omit “the member”, substitute “the appointee”.

Paragraphs 25(7)(c) and (d):

After “complaint” insert “or whose actions are the subject of the investigation”.

Subsection 25(9A):

After “complaint” (first occurring) insert “or the actions of an AFP appointee”.

Paragraph 25(9A):

After “investigated” insert “or the actions of the appointee are being investigated”.

Subsection 25(13):

Omit “a member”, substitute “an AFP appointee”.

SCHEDULE 1—continued

Paragraph 25A(1)(a):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 25A(1)(b):

Omit “a member or members of the Australian Federal Police”, substitute “at least one AFP appointee”.

Subparagraph 25A(1)(c)(i):

Omit “a member”, substitute “an AFP appointee”.

Subsection 26(5):

Omit “member” (wherever occurring), substitute “AFP appointee”.

Subsection 31(1):

(a) After “complaint” (wherever occurring), insert “or the actions of an AFP appointee”.

(b) Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Paragraph 36(1)(b):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 36(1)(c):

(a) Omit “a member”, substitute “an AFP appointee”.

(b) Omit “the member”, substitute “the appointee”.

Paragraph 36(2)(b):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 36(2)(c):

(a) Omit “a member”, substitute “an AFP appointee”.

(b) Omit “the member”, substitute “the appointee”.

Subsections 36(3) and (3A):

Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Paragraph 38(1)(b)

Omit “members of the Australian Federal Police” (wherever occurring), substitute “AFP appointees”.

SCHEDULE 1—continued

Subsection 38(2):

Omit “members”, substitute “AFP appointees”.

Subparagraph 41(3)(b)(i):

Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Subsection 41A(1):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 41A(3)(a):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 43(b):

Omit “members”, substitute “AFP appointees”.

Section 43:

Add at the end:

“; and (c) investigations of the actions of AFP appointees on his or own initiative under section 21A.”.

Paragraph 46(1)(a):

Omit.

Paragraph 46(1)(b):

Omit “a member”, substitute “an AFP appointee”.

Subsection 48(2):

Omit “member”, substitute “AFP appointee”.

Subsection 48(4):

Omit “member”, substitute “AFP appointee”.

Subsection 49(4):

Omit “a member”, substitute “an AFP appointee”.

Subsection 50(1):

Omit “a member” (wherever occurring), substitute “an AFP appointee”.

Paragraph 50(4)(a):

Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

SCHEDULE 1—continued

Subsection 50(5):

- (a) Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.
- (b) Omit “the member of the Australian Federal Police”, substitute “the appointee”.

Subsection 50(6):

- (a) Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.
- (b) Omit “the member”, substitute “the appointee”.

Subsection 50(7):

- (a) Omit “a member of the Australian Federal Police” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member of the Australian Federal Police”, substitute “the AFP appointee”.

Subsection 50(8):

Omit “A member of the Australian Federal Police”, substitute “An AFP appointee”.

Subsection 50(10):

Omit “A member of the Australian Federal Police”, substitute “An AFP appointee”.

Subsection 53(3):

- (a) Omit “a member” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.
- (c) After “lower rank”, insert “or level”.

Sections 66A and 66B:

- (a) Omit “a member”, substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.

Section 68:

- (a) Omit “a member” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.

SCHEDULE 1—continued

Subsection 69(1):

- (a) Omit “a member”, substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.

Subsection 69(1A):

Omit.

Paragraph 69(2)(c):

Omit “member”, substitute “AFP appointee”.

Subsection 69(4):

- (a) Omit “a member or staff member”, substitute “an AFP appointee”.
- (b) Omit “the member or staff member” (wherever occurring), substitute “the appointee”.

Subsection 69(5):

- (a) Omit “a member or staff member” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member or staff member” (wherever occurring), substitute “the appointee”.

Subsection 69(6):

Omit “member or staff member” (wherever occurring), substitute “AFP appointee”.

Subsection 69(7):

- (a) Omit “a member or staff member”, substitute “an AFP appointee”.
- (b) Omit “the member or staff member”, substitute “the appointee”.

Subsection 70(4):

Omit “member of the Australian Federal Police”, substitute “AFP appointee”.

Subsection 71(4):

Omit “a member”, substitute “an AFP appointee”.

Subsection 71(5):

- (a) Omit “a member” (wherever occurring), substitute “an AFP appointee”.
- (b) Omit “the member” (wherever occurring), substitute “the appointee”.

SCHEDULE 1—continued

Subsection 73(2):

Omit, substitute:

“(2) The warrant authorises any Federal police officer or member of the Police Force of a State or Territory to apprehend the person and bring the person before the Disciplinary Tribunal, and for that purpose, to detain that person in custody until the person is released by order of the Tribunal.”.

Subsection 75(2):

Omit “member”, substitute “AFP appointee”.

Subsection 75(4):

(a) Omit “a member”, substitute “an AFP appointee”.

(b) Omit “the member”, substitute “the appointee”.

Subsections 83(3) and (4):

Omit “a member”, substitute “an AFP appointee”.

Paragraph 87(1)(a):

Omit “a member of the Australian Federal Police”, substitute “an AFP appointee”.

Paragraphs 87(1)(e) and (f):

Omit.

Paragraph 87(3)(b):

Omit “a member”, substitute “an AFP appointee”.

Subsection 87(4):

Omit “a member of the Australian Federal Police” (wherever occurring), substitute “an AFP appointee”.

Subsection 87(7):

Omit “a member”, substitute “an AFP appointee”.

Section 88:

(a) Omit “A member”, substitute “An AFP appointee”.

(b) Omit “that member”, substitute “that appointee”.

SCHEDULE 2

Section 22

**OTHER AMENDMENTS TO INTRODUCE GENDER-NEUTRAL
TERMINOLOGY IN THE COMPLAINTS (AUSTRALIAN FEDERAL
POLICE) ACT 1981**

Subsection 7(4):

After "he" insert "or she".

Subsection 7(6):

After "him" (wherever occurring) insert "or her".

Subsection 7(7):

After "him" insert "or her".

Subsection 9(2):

(a) After "he" insert "or she".

(b) After "his" insert "or her".

Subsection 9(3):

After "his" insert "or her".

Subsection 10(2):

After "he" (wherever occurring) insert "or she".

Subsections 11(1) and (2):

(a) After "he" (wherever occurring) insert "or she".

(b) After "his" (wherever occurring) insert "or her".

Subsection 11(3):

(a) After "his" (wherever occurring) insert "or her".

(b) After "him" insert "or her".

Subsections 11(4) and (5):

After "him" insert "or her".

Subsection 11(6):

Omit "his" (wherever occurring).

Subsection 11(7):

After "he" insert "or she".

Subsection 15(2):

Omit "him" substitute "the Commissioner".

Subsection 16(2):

After "he" insert "or she".

SCHEDULE 2—continued**Subsection 17(2):**

After “he” insert “or she”.

Subsection 17(3):

(a) Omit “him” substitute “the officer”.

(b) After “him” (last occurring) insert “or her”.

Subsection 18(2):

After “him” (wherever occurring) insert “or her”.

Subsection 20(1):

(a) After “him” insert “or her”.

(b) After “his” insert “or her”.

Subsection 20(3):

After “him” insert “or her”.

Paragraph 22(4)(b):

After “his” insert “or her”.

Subsection 40(1):

After “than his”, insert “or her”.

Subsection 41(7):

After “he” insert “or she”.

Subsection 46(1):

After “he” insert “or she”.

Paragraph 46(3)(a):

(a) After “he” insert “or she”.

(b) After “his” insert “or her”.

Paragraph 46(3)(b):

After “him” insert “or her”.

Paragraphs 46(4)(a) and (b):

After “he” insert “or she”.

Subsection 47(1):

After “he” insert “or she”.

Subsection 48(1):

(a) After “his” insert “or her”.

(b) After “he” insert “or she”.

SCHEDULE 2—continued

Subsection 48(2):

- (a) After “him” insert “or her”.
- (b) Omit “he” (first and second occurring), substitute “the Commissioner”.
- (c) After “he” (last occurring), insert “or she”.

Subsection 48(3):

- (a) After “him” insert “or her”.
- (b) Omit “he” (first and second occurring), substitute “the Ombudsman”.
- (c) After “he” (last occurring) insert “or she”.

Subsection 48(4):

After “he” (wherever occurring) insert “or she”.

Subsection 49(4):

After “his” (wherever occurring) insert “or her”.

Subsection 50(1):

After “he” (wherever occurring) insert “or she”.

Subsection 50(2):

After “he” insert “or she”.

Subparagraph 50(4)(a)(ii):

After “him” (wherever occurring) insert “or her”.

Subsection 50(5):

After “him” insert “or her”.

Subsection 50(6):

After “him” (wherever occurring) insert “or her”.

Subsection 50(7):

After “him” insert “or her”.

Paragraph 50(7)(c):

After “him” insert “or her”.

Subsection 50(10):

Omit “his”.

Subsection 51(1):

Omit “he” substitute “the Minister”.

SCHEDULE 2—continued

Subsection 54(5):

After “his” (wherever occurring) insert “or her”.

Section 55:

After “he” (wherever occurring) insert “or she”.

Sections 56 and 57:

After “his” (wherever occurring) insert “or her”.

Subsection 59(1):

Omit “he”, substitute “the member”.

Subsections 60(1), (2) and (3):

After “his” insert “or her”.

Subsection 60(6):

(a) After “his” insert “or her”.

(b) After “he” insert “or she”.

Subsection 60(7):

Omit, substitute:

“(7) The appointment of a person to act as a member of the Disciplinary Tribunal ceases to have effect if the person resigns the appointment by giving a signed notice of resignation to the Minister.”.

Subsection 60(8):

After “he” insert “or she”.

Subsection 61(1):

After “him” insert “or her”.

Subsection 61(2):

After “his” insert “or she”.

Subsection 62(2):

After “his” insert “or her”.

Subsection 62(8):

Omit “him”, substitute “the member”.

Subsections 62(9) and (10).

(a) After “his” insert “or her”.

(b) After “him” insert “or her”.

SCHEDULE 2—continued

Section 63:

Repeal, substitute:

63. A member of the Disciplinary Tribunal may resign his or her office by giving a signed notice of resignation to the Governor-General."

Subsection 65(2):

(a) After "him" insert "or her".

(b) After "his" insert "or her".

Subsections 68 (1), (2) and (3):

After "him" (wherever occurring) insert "or her".

Subsection 68(5):

After "he" insert "or she".

Subparagraph 69(1)(a)(i):

Omit, substitute:

"(i) of his or her finding and of the reasons for that finding; and".

Paragraph 69(4)(b):

After "he" insert "or she".

Subsection 70(4):

After "he" insert "or she".

Subsection 71(5):

After "he" insert "or she".

Subsection 73(3):

(a) Omit "him" (first occurring), substitute "the person".

(b) After "him" (last occurring) insert "or her".

(c) After "his" insert "or her".

Subsection 74(3):

After "him" insert "or her".

Subsection 77(1):

After "his" insert "or her".

Subsection 83(1):

(a) After "he" (wherever occurring) insert "or she".

(b) After "him" insert "or her".

SCHEDULE 2—continued

Subsections 83(3) and (4):

- (a) Omit “he” (first occurring), substitute “the person”.
- (b) Omit “he” (last occurring), substitute “the appointee”.

Subsection 83(5):

Omit “him”, substitute “the person”.

Subsection 84(1):

- (a) After “his”, insert “or her”.
- (b) Omit “he” (wherever occurring), substitute “the person”.

Subsection 84(2):

Omit “he” (wherever occurring), substitute “the President”.

Paragraph 85(a):

After “his” insert “or her”.

Subsection 86(2):

Omit “him”, substitute “the Minister”.

Subsection 87(2):

- (a) After “he” (wherever occurring) insert “or she”.
- (b) After “his” (first occurring), insert “or her”.
- (c) Omit “him”, substitute “the person”.
- (d) Omit “by reason of his being or having been”, substitute “because he or she is, or has been,”.

Paragraph 87(3)(a):

After “his” insert “or her”.

Section 88:

After “his” (wherever occurring) insert “or her”.

SCHEDULE 3**OTHER AMENDMENTS TO PENALTIES****Subsection 7(8):**

Omit "\$1,000 or".

Subsection 41(2):

Omit "\$1,000", substitute "30 penalty units".

Subsection 41(5):

Omit "\$5,000 or".

Subsection 44(1):

Omit "\$1,000 or".

Subsection 44(2):

Omit "\$500 or imprisonment for 3 months", substitute "20 penalty units".

Subsection 50(8):

Omit "\$1,000 or".

Subsection 74(3):

Omit "\$1,000 or".

Section 82:

Omit "\$1,000 or".

Subsection 83(1):

Omit "\$1,000 or".

Subsection 83(2):

Omit "\$1,000 or".

Section 85:

Omit "\$1,000 or".

Subsection 87(2):

Omit "\$1,000", substitute "30 penalty units".

Section 88:

Omit "\$500", substitute "5 penalty units".

SCHEDULE 3—continued

Section 89:

Omit “\$200”, substitute “5 penalty units”.

NOTE

1. No. 21, 1981, as amended. For previous amendments, see No. 62, 1983; Nos. 72 and 165, 1984; No. 122, 1985; No. 168, 1986; No. 141, 1987; No. 153, 1989; No. 11, 1990; Nos. 28 and 199, 1991; and No. 143, 1992.

NOTE ABOUT SECTION HEADINGS

1. On the day on which this Act commences:
 - (a) the heading to section 17 of the *Complaints (Australian Federal Police) Act 1981* is omitted and the following heading is substituted:
“Federal police officers to be transferred to Investigation Division for limited periods”; and
 - (b) the heading to section 22 of the *Complaints (Australian Federal Police) Act 1991* is omitted and the following heading is substituted:
“Complaints to Ombudsman concerning action of AFP appointees”; and
 - (c) the heading to section 88 of the *Complaints (Australian Federal Police) Act 1981* is omitted and the following heading is substituted:
“AFP appointee to give name and address of place of duty on request”.

