

South Australia



POLICE (CONTRACT APPOINTMENTS) AMENDMENT ACT 1996

No. 91 of 1996

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ELIZABETHAE II REGINAE

A.D. 1996

No. 91 of 1996

An Act to amend the Police Act 1952.

[Assented to 12 December 1996]

The Parliament of South Australia enacts as follows:

Short title

1. (1) This Act may be cited as the *Police (Contract Appointments) Amendment Act 1996*.

(2) The *Police Act 1952* is referred to in this Act as "the principal Act".

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Amendment of s. 4—Interpretation

3. Section 4 of the principal Act is amended—

(a) by striking out the definition of "**commissioned officer**" and substituting the following definitions:

"**Assistant Commissioner**" means an Assistant Commissioner of Police appointed under this Act;

"**commissioned officer**" means a member of the police force appointed by the Governor;;

(b) by inserting in the definition of "**member of the police force**" "an Assistant Commissioner," after "Deputy Commissioner,";

(c) by inserting in the definition of "**the police force**" or "**the force**" "the Assistant Commissioners," after "Deputy Commissioner,".

Substitution of ss. 6 to 9C

4. Sections 6 to 9C of the principal Act are repealed and the following sections are substituted:

Appointment of Commissioner of Police

6. The Governor may appoint a person to be the Commissioner of Police.

Conditions of Commissioner's appointment

7. (1) The conditions of appointment of the Commissioner are to be subject to a contract between the Commissioner and the Premier.

(2) The contract must specify—

- (a) that the Commissioner is appointed for a term not exceeding five years specified in the contract and is eligible for reappointment; and
- (b) that the Commissioner is to meet performance standards as set from time to time by the Minister; and
- (c) that the Commissioner is entitled to remuneration and other benefits specified in the contract; and
- (d) the sums representing the values of the benefits (other than remuneration); and
- (e) the total remuneration package value of the position under the contract.

(3) The decision whether to reappoint to the position at the end of a term of appointment must be made and notified to the Commissioner not less than three months before the end of the term.

(4) The remuneration and other monetary benefits under the contract are a charge on the Consolidated Account of the State which is appropriated to the necessary extent.

(5) On setting or varying the performance standards to be met by the Commissioner, the Minister must cause a statement of the standards or variation to be laid before each House of Parliament within six sitting days if Parliament is then in session or, if not, within six sitting days after the commencement of the next session of Parliament.

(6) On making and notifying to the Commissioner a decision not to reappoint the Commissioner at the end of a term of appointment, the Minister must cause a statement of the reasons for that decision to be laid before each House of Parliament within six sitting days if Parliament is then in session or, if not, within six sitting days after the commencement of the next session of Parliament.

Deputy Commissioner

8. (1) The Governor may appoint a Deputy Commissioner of Police.

(2) The Deputy Commissioner must exercise and perform such of the powers, authorities, duties and functions of the Commissioner as the Commissioner may direct (either generally or in a special case).

(3) When the Commissioner is absent from duty because of illness or for any other reason, or during a vacancy in the office of the Commissioner, the Deputy Commissioner may exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Commissioner by or under this or another Act or any law.

Assistant Commissioners

9. (1) The Governor may appoint as many Assistant Commissioners of Police as the Governor thinks necessary.

(2) When the Deputy Commissioner is absent from duty because of illness or for any other reason, or during a vacancy in the office of the Deputy Commissioner—

- (a) the Assistant Commissioner nominated in writing by the Commissioner; or
- (b) if that Assistant Commissioner is absent from duty for any reason—the Assistant Commissioner who is the most senior Assistant Commissioner on duty at the time,

may exercise and perform all the powers, authorities, duties and functions conferred or imposed on the Deputy Commissioner.

Conditions of appointment of Deputy and Assistant Commissioners

9A. (1) The conditions of appointment of the Deputy Commissioner or an Assistant Commissioner are to be subject to a contract between the Deputy or Assistant Commissioner and the Commissioner.

(2) The contract must specify—

- (a) that the Deputy or Assistant Commissioner is appointed for a term not exceeding five years specified in the contract and is eligible for reappointment; and
- (b) that the Deputy or Assistant Commissioner is to meet performance standards as set from time to time by the Commissioner; and
- (c) that the Deputy or Assistant Commissioner is entitled to remuneration and other benefits specified in the contract; and
- (d) the sums representing the values of the benefits (other than remuneration); and
- (e) the total remuneration package value of the position under the contract.

(3) The decision whether to reappoint to the position at the end of a term of appointment must be made and notified to the Deputy or Assistant Commissioner not less than three months before the end of the term.

(4) If the contract so provides, an Assistant Commissioner will be entitled to some other specified appointment in the police force in the event that he or she is not reappointed at the end of a term of appointment or in other circumstances specified in the contract.

(5) If—

- (a) an Assistant Commissioner is not reappointed at the end of a term of appointment; and
- (b) the contract does not provide that the person is entitled to some other specified appointment in that event; and
- (c) immediately before the person was first appointed as an Assistant Commissioner, he or she was a member of the police force; and
- (d) the contract does not exclude the operation of this subsection,

the person is entitled to be appointed to a position in the police force of the same rank as the position he or she held immediately before being first appointed as an Assistant Commissioner.

Termination of appointment of Commissioner or Deputy or Assistant Commissioner

9B. (1) The appointment of the Commissioner, the Deputy Commissioner or an Assistant Commissioner may be terminated by the Governor on the ground that the Commissioner or Deputy or Assistant Commissioner—

- (a) has been guilty of misconduct; or
- (b) has been convicted of an offence punishable by imprisonment; or
- (c) has engaged in any remunerative employment, occupation or business outside the duties of the position without the consent of the Minister; or
- (d) has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors; or
- (e) has, because of mental or physical incapacity, failed to carry out duties of the position satisfactorily or to the performance standards specified in the contract relating to his or her appointment; or
- (f) has, for any other reason, failed to carry out duties of the position satisfactorily or to the performance standards specified in the contract relating to his or her appointment.

(2) A person may resign from the position of Commissioner or Deputy or Assistant Commissioner by not less than three months notice in writing to the Minister (unless notice of a shorter period is accepted by the Minister).

(3) On terminating the appointment of the Commissioner, the Minister must cause a statement of the reasons for the termination to be laid before each House of Parliament within six sitting days if Parliament is then in session or, if not, within six sitting days after the commencement of the next session of Parliament.

Amendment of s. 10—Appointment of officers

5. Section 10 of the principal Act is amended by striking out from subsection (1) "assistant commissioners,".

Transitional provisions

6. (1) The amendments made to the principal Act by this Act apply only in relation to an appointment to the position of Commissioner of Police, the position of Deputy Commissioner of Police or a position of Assistant Commissioner of Police made on or after the commencement of this Act.

(2) The provisions of the principal Act apply in relation to the holder of a position referred to in subsection (1) appointed to that position before the commencement of this Act as if this Act had not been enacted.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

E. J. NEAL Governor