

# **Police Regulation (Miscellaneous Amendments) Bill**

## **As Sent Print**

### **EXPLANATORY MEMORANDUM**

- Clause 1 sets out the purpose of the Act.
- Clause 2 provides for the Act to commence operation on the day after it receives Royal Assent.
- Clause 3 defines the **Police Regulation Act 1958** as the Principal Act.
- Clause 4 amends section 8AA of the Principal Act to impose a 10 day time limit from the date of notification for a police member to lodge an appeal against a promotion or transfer decision.
- Clause 5 substitutes section 71(2) in the Principal Act, which currently requires the Chief Commissioner to consult the Director of Public Prosecutions on any possible criminal offences detected during a disciplinary investigation. The new sub-section only requires the Chief Commissioner to consult the DPP on possible criminal offences listed in the First Schedule. The clause also inserts a new sub-section 71(2A) making it clear that the Chief Commissioner may also consult the DPP in relation to other possible offences not included in the First Schedule.
- Clause 6 amends sections 86P, 86R and 86S of the Principal Act to enable the Deputy Ombudsman or Minister to refer to the Director of Public Prosecutions the question of whether or not criminal proceedings should be taken against a police member. If a referral is made, the Chief Commissioner is precluded from taking any disciplinary action until notified by the Deputy Ombudsman or the Minister of the outcome of the Director's advice.

- Clause 7 amends section 89 of the Principal Act to allow for the appointment of two or more deputy chairpersons of the Police Appeals Board and at least one member who is a legal practitioner of at least 5 years' standing.
- Clause 8 amends section 91F of the Principal Act to impose a 14 day time limit from the date of notification for a police member to apply to the Police Appeals Board for the review of a disciplinary or other personnel-related decision.
- Clause 9 amends section 91M of the Principal Act to require at least three members of the Police Appeals Board (including at least one member who is a legal practitioner of at least 5 years' standing) to hear applications for reviews of a decision to terminate the appointment or dismiss a police member.
- Clause 10 inserts a new section 91MA in the Principal Act. The new section requires all Police Appeals Board hearings to be conducted in public unless the Board directs that all or part of the hearing is to be closed to the public to facilitate the proceedings or for other public interest reasons. It also allows the Board on public interest grounds to prohibit the disclosure or publication of information derived from a hearing.
- Clause 11 amends section 91R of the Principal Act to make it a contempt of the Board to publish or disclose information in breach of a non-disclosure or publication order under new section 91MA(3).
- Clause 12 inserts a new section 91T in the Principal Act, which gives the Police Appeals Board the discretion to accept late appeals or applications for review and extend other time limits.
- Clause 13 amends section 118B of the Principal Act to impose a 10 day time limit from the date of notification for a protective services officer to lodge an appeal against a promotion decision. It also removes any reference to "transfers" from section 118B.
- Clause 14 amends section 122 of the Principal Act to—
- (a) modernise the definition of "police gaol"; and
  - (b) allow for authorised persons, in addition to commissioned police officers, to direct the disposal of property in police possession.

- Clause 15 amends section 125 of the Principal Act to clarify that the process for a magistrate to determine the ownership of property in the possession of police where the ownership is in dispute does not apply to goods seized under a warrant to seize property under section 73 of the **Magistrates' Court Act 1989**.
- Clause 16 substitutes section 130(1)(de) of the Principal Act, to clarify that fees or charges may be imposed for services provided by public servants in Victoria Police as well as police members, e.g. criminal history checks.
- Clause 17 inserts a new First Schedule in the Principal Act, which sets out the possible offences detected in a disciplinary investigation on which the Chief Commissioner must consult the Director of Public Prosecutions before laying any disciplinary charges under section 71(2) of the Principal Act. See note on clause 5 above.

