

Police Regulation (Amendment) Bill

NOTES ON CLAUSES

Clause 1 states the purposes of the Act.

Clause 2 provides for the Act to come into operation by proclamation.

Clause 3 cites the Principal Act.

Clause 4 (1) repeals provisions for the Governor in Council to appoint officers of the police force and to specify periods of probation.

(2) substitutes a new section in the Principal Act to—

8. (1) empower the Chief Commissioner to appoint (promote) all members of the police force below commissioner rank;
- (2) retain the procedure for the Governor in Council to issue a certificate to newly-appointed officers;
- (3) restrict officer appointments to members of the force unless the Police Service Board determines that there are no suitable members to be promoted to a particular rank;
- (4) prescribe periods of probation;
- (5) empower the Chief Commissioner to disallow an appointment at any time during a period of probation;
- (6) specify the action to be taken at the end of a period of probation;
- (7) specify the action to be taken at the end of an extended period of probation;
- (8) specify the effect of a disallowance of a promotion;
- (9) specify the effect of a disallowance of an initial appointment to the force; and
- (10) exclude certain periods of absence from periods of probation.

Clause 5 (1) authorizes the Deputy Commissioners to exercise any powers of the Chief Commissioner contained in any regulations.

(2) authorizes the Chief Commissioner to delegate his powers and functions to public servants.

Clause 6 empowers the Chief Commissioner to appoint police recruits for training at the Police Academy prior to appointment as members of the force.

Clause 7 provides for the Chief Commissioner to accept the resignation of officers of the force and is consequential upon *Clause 4*.

Clause 8 empowers any member of the force to execute the process of any statutory body which may be directed to a specified member.

Clause 9 empowers the Police Service Board to—

- (a) hear and determine appeals against the disallowance of promotions; and
- (b) to determine the conditions of service of police recruits.

Clause 10 inserts a new Part 4A into the Principal Act which deals with the investigation of complaints against members of the police force. The new sections of this Part provide as follows:

86A defines “Authority” and “Conduct”.

86B creates a Police Complaints Authority comprised of one person.

- 86C prescribes the term of office and provides for the suspension of the Authority.
- 86D provides for the appointment of an Acting Authority.
- 86E prescribes the conditions of service of the Authority.
- 86F provides for the appointment of Authority staff.
- 86G prescribes the oath of office.
- 86H grants the Authority a power of delegation.
- 86I requires the Authority to report annually to Parliament.
- 86J provides an exclusion from liability for the Authority and its employees.
- 86K creates offences of obstructing the Authority and of making false complaints to the Authority.
- 86L prescribes the manner in which complaints about the conduct of members of the police force may be made.
- 86M specifies the manner of dealing with complaints made to a member of the force.
- 86N requires legitimate complaints made to the Authority to be referred to the Chief Commissioner for investigation but empowers the Authority to investigate certain complaints itself.
- 86O prescribes requirements for investigations conducted by the Chief Commissioner.
- 86P prescribes requirements for investigations conducted by the Authority and provides for the provision of police assistance to the Authority.
- 86Q requires members of the force to answer questions and provide information and documents relevant to any investigation by the Authority or the Chief Commissioner.
- 86R provides for further investigations into complaints to be conducted by the Authority or the Chief Commissioner.
- 86S provides for the Minister to resolve disagreements between the Authority and the Chief Commissioner.
- 86T provides for the provision of advice to complainants as to the results of investigations.
- 86U provides for questions of jurisdiction of the Authority to be determined by the Supreme Court.

Clause 11 enables the Chief Commissioner to nominate any Assistant Commissioner to sit on the Police Discipline Board.

Clause 12 provides for the Police Discipline Board to sit in two Divisions.

Clause 13 repeals provision for police officers to hear and determine discipline charges against members of the force; empowers the Police Discipline Board and the Police Service Board to impose a penalty of reduction in seniority in relation to discipline charges and increases the monetary penalties which both Boards may impose.

Clause 14 repeals and re-enacts with modifications provisions relating to the power of the Police Service Board to deal with members of the force who are convicted of criminal offences and to the power of the Chief Commissioner to suspend members. The new provisions are as follows:

- 88A provides for members who have been found guilty of a criminal offence but not convicted, and members convicted or found guilty of a criminal offence outside Victoria, to be dealt with by the Police Service Board. The Board is also empowered to impose a fine of \$4000, or any other penalty which the Police Discipline Board may impose in relation to discipline charges, on such a member.
- 88B empowers the Chief Commissioner to suspend a member who is reasonably suspected of having committed an offence or who has been found guilty but not convicted of a criminal offence; provides a right of appeal to a County Court judge in respect of the former suspension; and specifies the period of such suspensions.
- 88C provides for members suspended whilst under investigation for a suspected offence to be suspended on pay; empowers the Chief Commissioner to determine whether a suspended member should be suspended on pay; and prescribes the effects of suspension and entitlements to pay withheld during suspension.

Clause 15 empowers the Chief Commissioner to request the Police Discipline Board to determine the fitness (other than ill-health) of a member to discharge properly the member's duties, empowers the Board to dismiss or reduce in rank the member and provides a right of appeal to the Police Service Board against a decision of the Board.

Clause 16 entitles Police Reservists to maternity and paternity leave.

Clause 17 specifies more flexible procedures for the disposal of unclaimed goods in the possession of police and defines the periods after which goods may be deemed to be unclaimed.

Clause 18 provides exclusion from liability for members of the force in respect of irregularities in warrants, or actions taken in obedience to warrants, which are issued by statutory bodies.

Clause 19 provides for the making of regulations in respect of the granting of leave by the Chief Commissioner and the investigation of complaints about the conduct of members of the police force.

Clause 20 repeals the table of contents in the Principal Act. (A complete table will be attached to the Act when next it is reprinted).

Clause 21 amends the Magistrates' Courts Act consequent upon the amendments in Clause 18.

Clause 22 amends the Ombudsman Act to exclude members of the police force from the Ombudsman's jurisdiction consequent upon the creation of a Police Complaints Authority.

