

Police Regulation (Amendment) Act 1992

No. 72 of 1992

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Victoria

No. 72 of 1992

Police Regulation (Amendment) Act 1992

[Assented to 24 November 1992]

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to amend the **Police Regulation Act 1958**—

- (a) to make various provisions with respect to the appointment of Commissioners; and
- (b) to establish a Police Board; and
- (c) to make further amendments.

2. *Commencement*

This Act comes into operation on a day or days to be proclaimed.

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No. 6338.
Reprinted to
No. 50/1988.
Amended by
Nos 15/1989,
19/1989,
57/1989,
42/1990,
11/1992,
47/1992 and
49/1992.

3. *Principal Act*

In this Act the **Police Regulation Act 1958** is called the **Principal Act**.

4. *New definitions*

In section 3 of the Principal Act after the definition of "**Part**" insert—

"**Police Board**" means the "Police Board of Victoria".

5. *Appointments of Commissioners*

In section 4 of the Principal Act—

(a) after sub-section (2) insert—

"(2AA) The appointment of a Deputy Commissioner or an Assistant Commissioner is to be for the term, not exceeding 5 years, that the Governor in Council thinks fit on and from the date specified in the appointment."; and

(b) after sub-section (3) insert—

"(3A) A person appointed under sub-section (3) holds office for the period, not exceeding 5 years, specified in his or her appointment."

6. *Insertion of new sections 4A to 4G*

After section 4 of the Principal Act insert—

"4A. *Establishment of Police Board*

There is established a Board to be called the Police Board of Victoria.

4B. *Functions and Duties of the Police Board*

(1) The functions of the Police Board are—

(a) to advise the Minister and the Chief Commissioner on ways in which

the administration of the force might be improved; and

- (b) for the purpose of providing advice under paragraph (a), to inquire into the structure, organisation and management policies of the force, including the rules and policies governing recruitment, appointments, promotions, seniority, classification, training and development; and
- (c) to carry out any other function conferred on it by this Act.

(2) The Police Board—

- (a) must inquire into any matter relating to the administration of the force which is referred to it by the Minister or the Chief Commissioner, and must report on that matter to the person who referred it to the Board; and
- (b) if so requested by the Minister, must inquire into whether or not it should have any and, if so, what additional functions, duties or powers, and must report on that matter to the Minister.

4C. Powers of the Board

- (1) The Police Board has all the powers necessary to enable it to perform its duties and functions.
- (2) The Board may, in writing, authorise a member of the Board to exercise a power of entry under this section.
- (3) For the purposes of enabling the Board to carry out its functions or duties, a person authorised under sub-section (2)—
 - (a) may, at any reasonable time, enter any police premises;

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- (b) may inspect those premises;
 - (c) may inspect and take copies of or extracts from any documents that he or she finds on those premises;
 - (d) may take away from those premises any document found there, for as long as is necessary to take copies of it.
- (4) A person entering premises under sub-section (3)—
- (a) must cause as little damage as possible to the land and anything on it; and
 - (b) must remain on the premises only so long as is reasonably necessary; and
 - (c) must, if possible, give notice of the intended entry to the person in charge of the premises at least 7 days before entering the premises.
- (5) A member of the force must not hinder or obstruct a person authorised under this section in the exercise of a power of entry given by this section.

Penalty: 10 penalty units.

- (6) A person authorised under sub-section (2) must, if requested to do so by a member of the force, produce to that member his or her instrument of authority under that sub-section.

4D. *Membership of the Police Board*

- (1) There are to be 4 members of the Board of whom—
- (a) 1 member is to be the Chief Commissioner; and

- (b) 3 members are to be appointed by the Governor in Council of whom 1 is to be appointed chairperson.
- (2) A member appointed under sub-section (1) (b) holds office for the term, not exceeding 5 years, that is specified in his or her instrument of appointment and is eligible to be re-appointed.
- (3) Subject to this section, membership of the Board, the terms and conditions of office of members and the procedures of the Board are those set out in Schedule 1A.

4E. Staff

- (1) Subject to the **Public Service Act 1974**, there may be appointed any staff that are necessary to enable the Police Board to carry out its functions, powers and duties.
- (2) For the purposes of carrying out its functions, powers and duties the Board may, in consultation with the Minister and with the consent of the Chief Commissioner, make use of the services of any member of the force.

4F. Delegations

The Police Board may, in writing delegate any of its functions, duties or powers other than this power of delegation to—

- (a) a member of the Board; or
- (b) a member of the staff of the Board;
or
- (c) a person whose services are being made use of by the Board under section 4E (2).

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4G. Report of the Board

- (1) The Police Board must prepare a report in respect of each year ending on 30 June on its own work and activities for that year.
- (2) The Board must submit the report to the Minister not later than 30 September in that year.
- (3) The Minister must cause each report submitted to him under this section to be laid before the Legislative Council and the Legislative Assembly as soon as possible after the report has been received by the Minister.”.

7. Alteration of Appeal Rights

In section 8AA (1) of the Principal Act, after “to promotion” insert “or transfer”.

8. Insertion of new Schedule 1A

After the First Schedule to the Principal Act insert—

‘SCHEDULE 1A

**Membership, terms and conditions of office and
procedure of the Police Board**

1. Vacancies

- (1) An appointed member of the Board may resign the office of member by writing signed by the member and addressed to the Governor in Council.
- (2) The chairperson may resign the office of chairperson by writing signed by the chairperson and addressed to the Governor in Council.
- (3) The Governor in Council may remove an appointed member of the Board from office at any time and may remove the chairperson from the office of chairperson at any time.

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- (4) If an appointed member of the Board dies, resigns, or is removed from office, or if the chairperson dies, resigns from the office of chairperson or is removed from that office the Governor in Council may, in accordance with this Act, fill the vacant office.
- (5) A member or chairperson appointed under sub-clause (4) holds office for the term, not exceeding 5 years, that is specified in the instrument of appointment.

2. Acting member

- (1) If an appointed member of the Board is unable to perform the duties or functions of the office, the Governor in Council may appoint a person qualified to be appointed as that member to act as the member during the period of inability.
- (2) The Governor in Council—
 - (a) subject to this Act, may determine the terms and conditions of appointment of an acting member; and
 - (b) may at any time terminate the appointment.
- (3) While the appointment of an acting member remains in force, the acting member has and may exercise all the powers and perform all the duties and functions of the member.

3. Payment of member

- (1) Each appointed member or acting member of the Board (other than a member who is an officer or employee of the public service) is entitled to receive the fees that are fixed from time to time by Order of the Governor in Council for that member.
- (2) Each member or acting member of the Board is entitled to receive the allowances that are fixed from time to time by Order of the Governor in Council.
- (3) An Order of the Governor in Council may fix these fees or allowances by reference to the allowances determined from time to time under section 42 of the **Public Service Act 1974**.

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4. Procedure of the Board

- (1) At a meeting of the Board the person who must preside is—
 - (a) its chairperson; or
 - (b) if its chairperson is absent, a member, other than the Chief Commissioner, elected to preside by the members present at the meeting.
- (2) The decision of the Board at a meeting is the decision of the majority of votes cast at a meeting at which a quorum is present.
- (3) The person presiding at a meeting of the Board has a deliberative vote and also, if voting is equal, a casting vote.
- (4) 3 members of the Board constitute a quorum.
- (5) Subject to this Act, the Board may regulate its own proceedings.

5. Effect of vacancy or defect

An act or decision of the Board is not invalid only because—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any of its members.

6. Meaning of appointed member

In this Schedule—

“**appointed member**” means a person appointed to the Police Board under section 4D (1) (b) of this Act.’

9. Transitional Provision

A person holding office as an Assistant Commissioner or Deputy Commissioner immediately before the commencement of this section continues to hold that office on the same terms and conditions as those on which he or she held that office immediately before that commencement, unless the Governor in Council determines that that person is appointed for a term, not exceeding 5 years.

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Notes

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 29 October 1992

Legislative Council: 17 November 1992

2. The long title for the Bill for this Act was "A Bill to amend the **Police Regulation Act 1958** and for other purposes."
3. Section headings appear in bold italics and are not part of the Act. (See **Interpretation of Legislation Act 1984**.)